

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Human Skeletal Remains Protection Act is amended by changing Section 1 as follows:

(20 ILCS 3440/1) (from Ch. 127, par. 2661)

Sec. 1. Definitions. For the purposes of this Act:

(a) "Human skeletal remains" include the bones and decomposed fleshy parts of a deceased human body.

(b) "Unregistered graves" are any graves or locations where a human body has been buried or deposited; is over 100 years old; and is not in a cemetery registered with or licensed by the State Comptroller under the Cemetery Care Act or under the authority of the Illinois Department of Financial and Professional Regulation pursuant to the Cemetery Oversight Act, whichever is applicable.

(c) "Grave artifacts" are any item of human manufacture or use that is associated with the human skeletal remains in an unregistered grave.

(d) "Grave markers" are any tomb, monument, stone, ornament, mound, or other item of human manufacture that is associated with an unregistered grave.

(e) "Person" means any natural individual, firm, trust,

estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other representatives appointed by order of any court, the Federal and State governments, including State Universities created by statute or any city, town, county or other political subdivision of this State.

(f) "Disturb" includes excavating, removing, exposing, defacing, mutilating, destroying, molesting, or desecrating in any way human skeletal remains, unregistered graves, and grave markers.

(Source: P.A. 96-863, eff. 3-1-10.)

Section 10. The Missing Persons Identification Act is amended by adding Section 25 as follows:

(50 ILCS 722/25 new)

Sec. 25. Unidentified persons. The coroner or medical examiner shall obtain a DNA sample from any individual whose remains are not identifiable. The DNA sample shall be forwarded to the Department of State Police for inclusion in the State and National DNA Databases.

Prior to the burial or interment of any unknown individual's remains or any unknown individual's body part, the medical examiner or coroner in possession of the remains or body part must assign a DNA log number to the unknown individual or body part. The medical examiner or coroner shall

place a tag that is stamped or inscribed with the DNA log number on the individual or body part. The DNA log number shall be stamped on the unidentified individual's toe tag, if possible.

Section 15. The Counties Code is amended by changing Section 3-3034 as follows:

(55 ILCS 5/3-3034) (from Ch. 34, par. 3-3034)

Sec. 3-3034. Disposition of body. After the inquest the coroner may deliver the body or human remains of the deceased to the family of the deceased or, if there are no family members to accept the body or the remains, then to friends of the deceased, if there be any, but if not, the coroner shall cause the body or the remains to be decently buried, cremated, or donated for medical science purposes, the expenses to be paid from the property of the deceased, if there is sufficient, if not, by the county. The coroner may not approve the cremation or donation of the body if it is necessary to preserve the body for law enforcement purposes. If the State Treasurer, pursuant to the Uniform Disposition of Unclaimed Property Act, delivers human remains to the coroner, the coroner shall cause the human remains to be disposed of as provided in this Section. If the police department of any municipality or county investigates abandoned cremated remains, determines that they are human remains, and cannot

locate the owner of the remains, then the police shall deliver the remains to the coroner, and the coroner shall cause the remains to be disposed of as provided in this Section.

(Source: P.A. 96-1339, eff. 7-27-10.)

Section 25. The Cemetery Oversight Act is amended by changing Sections 5-15, 5-20, 5-25, 10-5, 10-15, 10-20, 10-21, 10-23, 10-25, 10-30, 10-40, 10-45, 10-50, 10-55, 20-5, 20-6, 20-10, 25-10, 25-14, 25-25, 25-70, 25-75, 25-105, 25-110, 25-120, 25-125, 75-50, and 75-55 and by adding Sections 10-39, 20-35, 20-40, and 25-14.5 as follows:

(225 ILCS 411/5-15)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5-15. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record for a cemetery authority shall be the permanent street address of the cemetery.

"Applicant" means a person applying for licensure under this Act as a cemetery authority, cemetery manager, or customer service employee. Any applicant or any person who holds himself

or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Burial permit" means a permit provided by a licensed funeral director for the disposition of a dead human body ~~that is filed with the Illinois Department of Public Health.~~

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein, including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures, in keeping with a well-maintained cemetery as provided for in Section 20-5 of this Act and otherwise as required by rule; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of cemetery workers, any discretionary payment of insurance premiums, and any reasonable payments for workers' pension and other benefits plans; and (v) the payment of expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

~~"Care funds", as distinguished from receipts from annual charges or gifts for current or annual care, means any realty or personalty impressed with a trust by the terms of any gift, grant, contribution, payment, legacy, or pursuant to contract, accepted by any cemetery authority or by any trustee, licensee, agent, or custodian for the same, under Article 15 of this Act,~~

~~and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal was established.~~

"Cemetery" means any land or structure in this State dedicated to and used, or intended to be used, for the interment, inurnment, or entombment of human remains.

~~"Cemetery association" means an association of 6 or more persons, and their successors in trust, who have received articles of organization from the Secretary of State to operate a cemetery; the articles of organization shall be in perpetuity and in trust for the use and benefit of all persons who may acquire burial lots in a cemetery.~~

"Cemetery authority" means any individual or legal entity that owns or controls cemetery lands or property.

"Cemetery manager" means an individual directly responsible or holding himself or herself directly responsible for the operation, maintenance, development, or improvement of a cemetery that is or shall be licensed under this Act, irrespective of whether the individual is paid by the licensed cemetery authority or a third party. This definition does not include a volunteer who receives no compensation, either directly or indirectly, for his or her work as a cemetery manager. ~~who is engaged in, or responsible for, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed~~

~~under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual employed or contracted by an independent contractor, a third party vendor, or an individual employed or contracted by a third party vendor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property.~~

"Cemetery merchandise" means items of personal property normally sold by a cemetery authority not covered under the Illinois Funeral or Burial Funds Act, including, but not limited to: (1) memorials, (2) markers, (3) monuments, (4) foundations and installations, and (5) outer burial containers.

"Cemetery operation" means to engage in any or all of the following, whether on behalf of, or in the absence of, a cemetery authority: (i) the interment, entombment, or inurnment of human remains, (ii) the sale of interment, entombment, or inurnment rights, cemetery merchandise, or cemetery services, (iii) the maintenance of interment rights ownership records, (iv) the maintenance of or reporting of interment, entombment, or inurnment records, (v) the

maintenance of cemetery property, (vi) the development or improvement of cemetery grounds, or (vii) the maintenance and execution of business documents, including State and federal government reporting and the payment of taxes, for a cemetery business entity. ~~or attempt to engage in the interment, inurnment, or entombment of human remains or to engage in or attempt to engage in the care of a cemetery.~~

"Cemetery Oversight Database" means a database certified by the Department as effective in tracking the interment, entombment, or inurnment of human remains.

"Cemetery services" means those services customarily performed by cemetery personnel in connection with the interment, entombment, or inurnment of a dead human body.

~~"Cemetery worker" means an individual, including an independent contractor or third party vendor, who performs any work at the cemetery that is customarily performed by one or more cemetery employees, including openings and closings of vaults and graves, stone settings, inurnments, interments, entombments, administrative work, handling of any official burial records, the preparation of foundations for memorials, and routine cemetery maintenance. This definition does not include uncompensated, volunteer workers.~~

"Certificate of organization" means the document received by a cemetery association from the Secretary of State that indicates that the cemetery association shall be deemed fully organized as a body corporate under the name adopted and in its

corporate name may sue and be sued.

"Comptroller" means the Comptroller of the State of Illinois.

"Confidential information" means unique identifiers, including a person's Social Security number, home address, home phone number, personal phone number, personal email address, personal financial information, and any other information protected by law.

"Consumer" means an individual who purchases or who is considering purchasing cemetery, burial, or cremation products or services from a cemetery authority, whether for themselves or for another person. ~~a person, or the persons given priority for the disposition of an individual's remains under the Disposition of Remains Act, who purchases or is considering purchasing cemetery, burial, or cremation products or services from a cemetery authority or crematory authority, whether for themselves or for another person.~~

"Customer service employee" means an individual who has direct contact with consumers to explain cemetery merchandise, services, and interment rights and to execute the sale of those items to consumers, whether at the cemetery or an off-site location, irrespective of whether compensation is paid by the cemetery authority or a third party. This definition does not include a volunteer who receives no compensation, either directly or indirectly, for his or her work as a customer service employee. ~~and explains cemetery merchandise or~~

~~services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual that is employed or contracted by an independent contractor, a third party vendor, or an individual that is employed or contracted by a third party vendor, who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include an employee, an individual that is an independent contractor or an individual that is employed or contracted by an independent contractor, a third party vendor, or an individual that is employed or contracted by a third party vendor, who merely provides a printed cemetery list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, souvenirs, or other similar items.~~

"Department" means the Department of Financial and Professional Regulation.

"Employee" means an individual who works for a cemetery authority where the cemetery authority has the right to control what work is performed and the details of how the work is performed regardless of whether federal or State payroll taxes are withheld.

"Entombment right" means the right to place individual human remains or individual cremated human remains in a

specific mausoleum crypt or lawn crypt selected by a consumer for use as a final resting place.

"Family burying ground" means a cemetery in which no lots, crypts, or niches are sold to the public and in which interments, inurnments, and entombments are restricted to the immediate family or a group of individuals related to each other by blood or marriage.

"Full exemption" means an exemption granted to a cemetery authority pursuant to subsection (a) of Section 5-20.

"Funeral director" means a funeral director as defined by the Funeral Directors and Embalmers Licensing Code.

"Grave" means a space of ground in a cemetery used or intended to be used for burial.

"Green burial or cremation disposition" means burial or cremation practices that reduce the greenhouse gas emissions, waste, and toxic chemicals ordinarily created in burial or cremation or, in the case of greenhouse gas emissions, mitigate or offset emissions. Such practices include any standards or method for burial or cremation ~~certified by the Green Burial Council or any other organization or method~~ that the Department may name by rule.

"Immediate family" means the designated agent of a person or the persons given priority for the disposition of a person's remains under the Disposition of Remains Act and shall include a person's spouse, parents, grandparents, children, grandchildren and siblings.

~~"Imputed value" means the retail price of comparable rights within the same or similar area of the cemetery.~~

~~"Independent contractor" means a person who performs work for a cemetery authority where the cemetery authority has the right to control or direct only the result of the work and not the means and methods of accomplishing the result.~~

"Individual" means a natural person.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by a consumer for use as a final resting place.

"Inurnment right" means the right to place individual cremated human remains in a specific niche selected by the consumer for use as a final resting place.

~~"Investment Company Act of 1940" means Title 15 of the United States Code, Sections 80a-1 to 80a-64, inclusive, as amended.~~

~~"Investment company" means any issuer (a) whose securities are purchasable only with care funds or trust funds, or both; (b) that is an open and diversified management company as defined in and registered under the Investment Company Act of 1940; and (c) that has entered into an agreement with the Department containing such provisions as the Department by regulation requires for the proper administration of this Act.~~

"Lawn crypt" means a permanent underground crypt installed in multiple units for the entombment ~~interment~~ of human

remains.

"Licensee" means a person licensed under this Act as a cemetery authority, cemetery manager, or customer service employee. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act. ~~This definition does not include a cemetery worker.~~

"Mausoleum crypt" means a grouping of spaces constructed of reinforced concrete or similar material constructed or assembled above the ground for entombing remains ~~space in a mausoleum used or intended to be used, above or underground, to entomb human remains.~~

"Niche" means a space in a columbarium or mausoleum used, or intended to be used, for inurnment of cremated human remains.

"Partial exemption" means an exemption granted to a cemetery authority pursuant to subsection (b) of Section 5-20.

"Parcel identification number" means a unique number assigned by the Cemetery Oversight Database to a grave, plot, crypt, or niche that enables the Department to ascertain the precise location of a decedent's remains interred, entombed, or inurned after the effective date of this Act.

"Person" means any individual, firm, partnership, association, corporation, limited liability company, trustee, government or political subdivision, or other entity.

"Public cemetery" means a cemetery owned, operated, controlled, or managed by the federal government, by any state, county, city, village, incorporated town, township, multi-township, public cemetery district, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

"Religious burying ground" means a cemetery in which no lots, crypts, or niches are sold and in which interments, inurnments, and entombments are restricted to a group of individuals all belonging to a religious order or granted burial rights by special consideration of the religious order.

"Religious cemetery" means a cemetery owned, operated, controlled, and ~~or~~ managed by any recognized church, religious society, association, or denomination, or by any cemetery authority or any corporation administering, or through which is administered, the temporalities of any recognized church, religious society, association, or denomination.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Term burial" means a right of interment sold to a consumer in which the cemetery authority retains the right to disinter and relocate the remains, subject to the provisions of subsection (d) of Section 35-15 of this Act.

"Trustee" means any person authorized to hold funds under this Act.

"Unique personal identifier" means the parcel

identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death for human remains interred, entombed, or inurned after the effective date of this Act. The unique personal identifier is assigned by the Cemetery Oversight Database.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-20)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5-20. Exemptions.

(a) Full exemption. Except as provided in this subsection, ~~Notwithstanding any provision of law to the contrary,~~ this Act does not apply to (1) any cemetery authority operating as a family burying ground or religious burying ground, (2) any cemetery authority that has not engaged in an interment, inurnment, or entombment of human remains within the last 10 years ~~and does not accept or maintain care funds~~, or (3) any cemetery authority that is less than 3 acres ~~2 acres and does not accept or maintain care funds~~. For purposes of determining the applicability of this subsection, the number of interments, inurnments, and entombments shall be aggregated for each calendar year. A cemetery authority claiming a full exemption shall apply for exempt status as provided for in Section 10-20 ~~Article 10~~ of this Act. A cemetery authority claiming a full exemption shall be subject to Sections 10-40, 10-55, and 10-60

of this Act. A cemetery authority that performs activities that would disqualify it from a full exemption is required to apply for licensure within one year following the date on which its activities would disqualify it for a full exemption. A cemetery authority that previously qualified for and maintained a full exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(b) Partial exemption. If a cemetery authority does not qualify for a full exemption and (1) engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years, (2) operates as a public cemetery, or (3) operates as a religious cemetery, then the cemetery authority is partially exempt from this Act but shall be required to comply with Sections 10-23, 10-40, 10-55, 10-60, subsections (a), (b), (b-5), (c), (d), and (h) of Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30, 20-35, 20-40, 25-3, and 25-120, and Article 35 of this Act. ~~Notwithstanding any provision of law to the contrary, a cemetery authority that does not qualify for a full exemption that is operating as a cemetery authority (i) that engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years and does not accept or maintain care funds, (ii) that is operating as a public cemetery, or (iii) that is operating as a religious~~

~~cemetery is exempt from this Act, but is required to comply with Sections 20-5(a), 20-5(b), 20-5(b-5), 20-5(c), 20-5(d), 20-6, 20-8, 20-10, 20-11, 20-12, 20-30, 25-3, and 25-120 and Article 35 of this Act.~~ Cemetery authorities claiming a partial exemption shall apply for the partial exemption as provided in Section 10-20 ~~Article 10~~ of this Act. A cemetery authority that changes to a status that would disqualify it from a partial exemption is required to apply for licensure within one year following the date on which it changes its status. A cemetery authority that maintains a partial exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(c) Nothing in this Act applies to the City of Chicago in its exercise of its powers under the O'Hare Modernization Act or limits the authority of the City of Chicago to acquire property or otherwise exercise its powers under the O'Hare Modernization Act, or requires the City of Chicago, or any person acting on behalf of the City of Chicago, to comply with the licensing, regulation, investigation, or mediation requirements of this Act in exercising its powers under the O'Hare Modernization Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-25)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5-25. Powers of the Department. Subject to the provisions of this Act, the Department may exercise the following powers:

(1) Authorize certification programs ~~written examinations~~ to ascertain the qualifications and fitness of applicants for licensing as a licensed cemetery manager or as a customer service employee to ascertain whether they possess the requisite level of knowledge for such position.

(2) Examine ~~and audit~~ a licensed cemetery authority's ~~care funds,~~ records from any year, ~~and records of care funds from any year,~~ or any other aspects of cemetery operation as the Department deems appropriate.

(3) Investigate any and all cemetery operations ~~cemetery-related activity.~~

(4) Conduct hearings on proceedings to refuse to issue or renew licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline a license under this Act or take other non-disciplinary action.

(5) Adopt reasonable rules required for the administration of this Act.

(6) Prescribe forms to be issued for the administration and enforcement of this Act.

(7) Maintain rosters of the names and addresses of all licensees and all persons whose licenses have been suspended, revoked, denied renewal, or otherwise disciplined within the previous calendar year. These

rosters shall be available upon written request and payment of the required fee as established by rule.

(8) Work with the Office of the Comptroller and the Department of Public Health, Division of Vital Records to exchange information and request additional information relating to a licensed cemetery authority;

(9) Investigate cemetery contracts, grounds, or employee records.

If the Department exercises its authority to conduct investigations under this Section, the Department shall provide the cemetery authority with information sufficient to challenge the allegation. If the complainant consents, then the Department shall provide the cemetery authority with the identity of and contact information for the complainant so as to allow the cemetery authority and the complainant to resolve the complaint directly. Except as otherwise provided in this Act, any complaint received by the Department and any information collected to investigate the complaint shall be maintained by the Department for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials or other regulatory agencies or persons that have an appropriate regulatory interest, as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, state, county, or local law enforcement agency shall not be

disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-5)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-5. Restrictions and limitations. No person shall, without a valid license issued by the Department, (i) hold himself or herself out in any manner to the public as a licensed cemetery authority, licensed cemetery manager, or customer service employee ~~or~~ (ii) attach the title "licensed cemetery authority", "licensed cemetery manager", or "licensed customer service employee" to his or her name. No person shall, without a valid license or exemption from licensure from the Department, ~~(iii) render or offer to render services constituting the practice of cemetery operation; or (iv) accept care funds within the meaning of this Act or otherwise hold funds for care and maintenance unless such person is holding and managing funds on behalf of a cemetery authority and is authorized to conduct a trust business under the Corporate Fiduciary Act or the federal National Bank Act.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-15)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-15. Licenses for cemetery authorities, cemetery managers, and customer service employees. ~~Persons not licensed under the Cemetery Care Act or the Cemetery Association Act. A cemetery manager, a customer service employee, or a person acting as a cemetery authority who was not required to obtain licensure prior to the effective date of this Act need not comply with the licensure requirement in this Article until the Department takes action on the person's application for a license.~~ The application for a cemetery authority license must be submitted to the Department within 6 months after the Department adopts rules under this Act ~~the effective date of this Act~~. For cemetery managers already working for a cemetery authority at the time of cemetery authority application for licensure, the application for a cemetery manager license must be submitted at the same time as the original application for licensure as a cemetery authority ~~pursuant to this Section or Section 10-10, whichever the case may be~~. Any applicant for licensure as a cemetery manager of a cemetery authority that is already licensed under this Act or that has a pending application for licensure under this Act must submit his or her application to the Department on or before his or her first day of work. The application for a customer service employee license must be submitted to the Department within 10 days after the cemetery authority for which he or she works becomes

licensed under this Act or on or before his or her first day of work for a cemetery authority that is already licensed under this Act, whichever the case may be. If the person fails to submit the application within the required period, the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-20)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-20. Application for original license or exemption.

(a) Applications for original licensure as a cemetery authority, cemetery manager, or customer service employee authorized by this Act, or application for exemption from licensure as a cemetery authority, shall be made to the Department on forms prescribed by the Department, which shall include the applicant's Social Security number or FEIN number, or both, and shall be accompanied by the required fee as set by Section 10-55 of this Act and further refined by rule. Applications for partial or full exemption from licensure as a cemetery authority shall be submitted to the Department within 6 months ~~12 months~~ after the Department adopts rules under this Act. If the person fails to submit the application for partial or full exemption within this period, the person shall be subject to discipline in accordance with Article 25 of this

Act. The process for renewing a full or partial exemption shall be set by rule. If a cemetery authority seeks to practice at more than one location, it shall meet all licensure requirements at each location as required by this Act and by rule, including submission of an application and fee. ~~A person licensed as a cemetery manager or customer service employee need not submit a Worker's Statement in accordance with Section 10-22 of this Act.~~

(b) (Blank). ~~If the application for licensure as a cemetery authority does not claim a full exemption or partial exemption, then the cemetery authority license application shall be accompanied by a fidelity bond, proof of self-insurance, or letter of credit in the amount required by rule. Such bond, self-insurance, or letter of credit shall run to the Department for the benefit of the care funds held by such cemetery authority or by the trustee of the care funds of such cemetery authority. If care funds of a cemetery authority are held by any entity authorized to do a trust business under the Corporate Fiduciary Act or held by an investment company, then the Department shall waive the requirement of a bond, self-insurance, or letter of credit as established by rule. If the Department finds at any time that the bond, self-insurance or letter of credit is insecure or exhausted or otherwise doubtful, then an additional bond, form of self-insurance, or letter of credit in like amount to be approved by the Department shall be filed by the cemetery authority applicant~~

~~or licensee within 30 days after written demand is served upon the applicant or licensee by the Department. In addition, if the cemetery authority application does not claim a full exemption or partial exemption, then the license application shall be accompanied by proof of liability insurance, proof of self insurance, or a letter of credit in the amount required by rule. The procedure by which claims on the liability insurance, self insurance, or letter of credit are made and paid shall be determined by rule. Any bond obtained pursuant to this subsection shall be issued by a bonding company authorized to do business in this State. Any letter of credit obtained pursuant to this subsection shall be issued by a financial institution authorized to do business in this State. Maintaining the bonds, self insurance, or letters of credit required under this subsection is a continuing obligation for licensure. A bonding company may terminate a bond, a financial institution may terminate a letter of credit, or an insurance company may terminate liability insurance and avoid further liability by filing a 60 day notice of termination with the Department and at the same time sending the same notice to the cemetery authority.~~

(c) After initial licensure, if any person comes to obtain at least 51% of the ownership over the licensed cemetery authority, then the cemetery authority shall have to apply for a new license and receive licensure in the required time as set by rule. The current license remains in effect until the

Department takes action on the application for a new license.

(d) All applications shall contain the information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for an exemption from licensure or for a license to practice as a cemetery authority, cemetery manager, or customer service employee as set by rule.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-21)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-21. Qualifications for licensure.

(a) A cemetery authority shall apply for licensure on forms prescribed by the Department and pay the required fee. An applicant is qualified for licensure as a cemetery authority if the applicant meets all of the following qualifications:

(1) The applicant ~~is of good moral character and~~ has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under this Act. When considering such license ~~In determining good moral character,~~ the Department shall take into consideration the following:

(A) the applicant's record of compliance with the Code of Professional Conduct and Ethics, and whether the applicant has been found to have engaged in any unethical or dishonest practices in the cemetery

business;

(B) whether the applicant has been adjudicated, civilly or criminally, to have committed fraud or to have violated any law of any state involving unfair trade or business practices, has been convicted of a misdemeanor of which fraud is an essential element or which involves any aspect of the cemetery business, or has been convicted of any felony;

(C) whether the applicant has willfully violated any provision of this Act or a predecessor law or any regulations relating thereto;

(D) whether the applicant has been permanently or temporarily suspended, enjoined, or barred by any court of competent jurisdiction in any state from engaging in or continuing any conduct or practice involving any aspect of the cemetery or funeral business; and

(E) whether the applicant has ever had any license to practice any profession or occupation suspended, denied, fined, or otherwise acted against or disciplined by the applicable licensing authority.

If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then the Department shall determine whether each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock has met the requirements of

~~this item (1) of subsection (a) of this Section is to be of good moral character. Good moral character is a continuing requirement of licensure.~~

(2) The applicant must provide a statement of its assets and liabilities to the Department. ~~The applicant provides evidence satisfactory to the Department that the applicant has financial resources sufficient to comply with the maintenance and record keeping provisions in Section 20 5 of this Act. Maintaining sufficient financial resources is a continuing requirement for licensure.~~

(3) The applicant has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction.

(4) The applicant shall authorize the Department to

conduct a criminal background check that does not involve fingerprinting. ~~The applicant submits his or her fingerprints in accordance with subsection (c) of this Section.~~

(5) In the case of a person or entity applying for renewal of his, her, or its license, the ~~The~~ applicant has complied with all other requirements of this Act and the rules adopted for the implementation of this Act.

(b) The cemetery manager and customer service employees of a licensed cemetery authority shall apply for licensure as a cemetery manager or customer service employee on forms prescribed by the Department and pay the required fee. A person is qualified for licensure as a cemetery manager or customer service employee if he or she meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Has acted in an ethical manner as set forth in Section 10-23 of this Act ~~is of good moral character. Good moral character is a continuing requirement of licensure.~~ In determining qualifications of licensure ~~good moral character~~, the Department shall take into consideration the factors outlined in item (1) of subsection (a) of this Section.

(3) Submits proof of successful completion of a high school education or its equivalent as established by rule.

(4) The applicant shall authorize the Department to

conduct a criminal background check that does not involve fingerprinting ~~Submits his or her fingerprints in accordance with subsection (c) of this Section.~~

(5) Has not committed a violation of this Act or any rules adopted under this Act that, in the opinion of the Department, renders the applicant unqualified to be a cemetery manager.

(6) Submits proof of successful completion of a certification course recognized by the Department for a cemetery manager or customer service employee, whichever the case may be ~~Successfully passes the examination authorized by the Department for cemetery manager or customer service employee, whichever is applicable.~~

(7) Has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction.

(8) (Blank). ~~Can be reasonably expected to treat consumers professionally, fairly, and ethically.~~

(9) In the case of a person applying for renewal of his or her license, has ~~Has~~ complied with all other requirements of this Act and the rules adopted for implementation of this Act.

(c) Each applicant for a cemetery authority, cemetery

manager, or customer service employee license shall authorize the Department to conduct a criminal background check that does not involve fingerprinting. The Department must, in turn, conduct the criminal background check on each applicant. The Department shall adopt rules to implement this subsection (c), but in no event shall the Department impose a fee upon the applicant for the background check. ~~Each applicant for a cemetery authority, cemetery manager, or customer service employee license shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information that is prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or directly to a designated fingerprint vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated fingerprint vendor to provide~~

~~his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted. If the applicant for a cemetery authority license is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock shall have his or her fingerprints submitted in accordance with this subsection (c).~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-23)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-23. Code of Professional Conduct and Ethics.
Licensed cemetery authorities and their licensed cemetery managers and customer service employees, and cemetery authorities maintaining a partial exemption and their cemetery managers and customer service employees shall:

(a) Refrain from committing any action that may violate Section 25-10 of this Act;

(b) Be aware of applicable federal and State laws and regulations, adhere to those laws and regulations, and be able to explain them to families in an understandable manner;

(c) Treat all human remains with proper care and dignity, honoring known religious, ethnic, and personal beliefs;

(d) Protect all confidential information;

(e) Carry out all aspects of service in a competent and respectful manner;

(f) Fulfill all written and verbal agreements and contracts;

(g) Provide honest, factual, and complete information regarding all aspects of the services offered and provided;

(h) Not engage in advertising that is false, misleading, or otherwise prohibited by law;

(i) Not discriminate against any person because of race, creed, marital status, sex, national origin, sexual orientation, or color, except a religious cemetery may restrict its services to those of the same religious faith or creed. A cemetery authority operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation;

(j) To have clear and specific cemetery rules and regulations, subject to other applicable law, including this Act, and to apply them equally to all families served;

(k) Report all violations of this Act and this Section to the Department. The Department shall adopt a Code of Professional Conduct and Ethics by rule. Cemetery authorities, cemetery managers, and customer service employees shall abide by the Code of Professional Conduct and Ethics.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-25)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-25. Certification Examination; ~~failure or refusal to take the examination.~~

(a) The Department shall authorize certification programs for ~~examinations of~~ cemetery manager and customer service employee applicants ~~at such times and places as it may determine.~~ The certification programs must consist of education and training in cemetery ethics, cemetery law, and cemetery practices. Cemetery ethics shall include, without limitation, the Code of Professional Conduct and Ethics as set forth in Section 10-23 of this Act. Cemetery law shall include, without limitation, the Cemetery Oversight Act, the Cemetery Care Act, the Disposition of Remains Act, and the Cemetery Protection Act. Cemetery practices shall include, without limitation, treating the dead and their family members with dignity and respect. The certification program shall include an examination administered by the entity providing the certification. ~~The examinations shall fairly test an applicant's qualifications to practice as cemetery manager or customer service employee, whatever the case may be, and knowledge of the theory and practice of cemetery operation and management or cemetery customer service, whichever is applicable. The examination shall further test the extent to~~

~~which the applicant understands and appreciates that the final disposal of a deceased human body should be attended with appropriate observance and understanding, having due regard and respect for the reverent care of the human body and for those bereaved and for the overall spiritual dignity of an individual.~~

(a-5) An entity seeking to offer a certification program to cemetery manager applicants and customer service employee applicants must receive approval of its program from the Department in a manner and form prescribed by the Department by rule. As part of this process, the entity must submit to the Department the examination it offers or intends to offer as part of its certification program ~~The examinations for cemetery manager and customer service employee shall be appropriate for cemetery professionals and shall not cover mortuary science.~~

(a-10) A cemetery manager applicant or customer service employee applicant may choose any entity that has been approved by the Department from which to obtain certification ~~The examinations for cemetery manager and customer service employee applicants shall be tiered, as determined by rule, to account for the different amount of knowledge needed by such applicants depending on their job duties and the number of interments, inurnments, and entombments per year at the cemetery at which they work.~~

(b) Cemetery manager applicants and customer service employee applicants shall pay the fee for the certification

~~program directly to the entity offering the program. Applicants for examinations shall pay, either to the Department or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified after the application for examination has been received and acknowledged by the Department or the designated testing service shall result in forfeiture of the examination fee.~~

(c) If the cemetery manager applicant or customer service employee applicant neglects, fails, or refuses to become certified ~~take an examination or fails to pass an examination for a license under this Act~~ within one year after filing an application, then the application shall be denied. However, the applicant may thereafter submit a new application accompanied by the required fee. The applicant shall meet the requirements in force at the time of making the new application.

(d) A cemetery manager applicant or customer service employee applicant who has completed a certification program offered by an entity that has not received the Department's approval as required by this Section has not met the qualifications for licensure as set forth in Section 10-21 of this Act ~~The Department may employ consultants for the purpose of preparing and conducting examinations.~~

(e) The Department shall recognize any certification program that is conducted by a death care trade association in

Illinois that has been in existence for more than 5 years that, in the determination of the Department, provides adequate education and training in cemetery law, cemetery ethics, and cemetery practices and administers an examination covering the same ~~The Department shall have the authority to adopt or recognize, in part or in whole, examinations prepared, administered, or graded by other organizations in the cemetery industry that are determined appropriate to measure the qualifications of an applicant for licensure.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-30)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-30. Continuing education. The Department shall adopt rules for continuing education of cemetery managers and customer service employees. The continuing education programs may consist of education and training in cemetery ethics, cemetery law, and cemetery practices as defined in Section 10-25 of this Act. An entity seeking to offer a continuing education program to cemetery managers and customer service employees must receive approval of its program from the Department in a manner and form prescribed by the Department by rule. Cemetery managers shall be required to complete 6 hours of continuing education during each renewal cycle. Customer service employees shall be required to complete 3 hours of continuing education during each renewal cycle. ~~The continuing~~

~~education requirements for cemetery managers and customer service employees shall be tiered, as determined by rule, to account for the different amount of knowledge needed by such applicants depending on their job duties and the number of interments, inurnments, and entombments per year at the cemetery at which they work. The Department shall strive to keep the costs of any continuing education program imposed on a cemetery authority minimal. The requirements of this Section apply to any person seeking renewal or restoration under Section 10-40 of this Act.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-39 new)

Sec. 10-39. Cemetery manager and customer service employee; display of certification and license; grace periods. The cemetery manager and customer service employee must conspicuously display the certification and the license after it is received at the cemetery authority's place of business. Any person applying for original licensure as a cemetery manager without the required certification from a program approved by the Department shall have a reasonable period of time, not to exceed one year from the date of his or her original application, but not any second or subsequent application, to complete the program. In the interim, the cemetery manager without certification may manage the cemetery if he or she (1) has submitted an application for licensure and

(2) has received training from another person, as verified by an appropriate form approved by the Department, who has received the required certification from a program recognized by the Department. Any person applying for original licensure as a customer service employee without the required certification from a program approved by the Department shall have a reasonable period of time, not to exceed one year from the date of his or her original application, but not any second or subsequent application, to complete the program. In the interim, the customer service employee without certification may engage in the work of a customer service employee if he or she (1) has submitted an application for licensure and (2) has received training from another person, as verified by an appropriate form approved by the Department, who has received certification from a program recognized by the Department.

(225 ILCS 411/10-40)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-40. Expiration and renewal of license. Every cemetery authority, cemetery manager, and customer service employee license shall expire every 2 years. Every registration as a fully exempt cemetery authority or partially exempt cemetery authority shall expire every 4 years. The expiration date, renewal period, and other requirements for each license and registration shall be further refined ~~set~~ by rule.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-45)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-45. Transfer or sale, preservation of license, ~~liability for shortage.~~

(a) (Blank). ~~In the case of a sale of any cemetery or any part thereof or of any related personal property by a cemetery authority to a purchaser or pursuant to foreclosure proceedings, except the sale of burial rights, services, or merchandise to a person for his or her personal or family burial or interment, the purchaser is liable for any shortages existing before or after the sale in the care funds required to be maintained in a trust pursuant to this Act and shall honor all instruments issued under Article 15 of this Act for that cemetery. Any shortages existing in the care funds constitute a prior lien in favor of the trust for the total value of the shortages and notice of such lien shall be provided in all sales instruments.~~

(b) In the event of a sale or transfer of all or substantially all of the assets of the cemetery authority, the sale or transfer of the controlling interest of the corporate stock of the cemetery authority, if the cemetery authority is a corporation, or the sale or transfer of the controlling interest of the partnership, if the cemetery authority is a partnership, or the sale or transfer of the controlling membership, if the cemetery authority is a limited liability

company, the cemetery authority shall, at least 30 days prior to the sale or transfer, notify the Department, in writing, of the pending date of sale or transfer ~~so as to permit the Department to audit the books and records of the cemetery authority. The audit must be commenced within 10 business days of the receipt of the notification and completed within the 30 day notification period unless the Department notifies the cemetery authority during that period that there is a basis for determining a deficiency that will require additional time to finalize.~~ The sale or transfer may not be completed by the cemetery authority unless and until:

(1) (Blank). ~~the Department has completed the audit of the cemetery authority's books and records;~~

(2) (Blank). ~~any delinquency existing in the care funds has been paid by the cemetery authority or arrangements satisfactory to the Department have been made by the cemetery authority on the sale or transfer for the payment of any delinquency; and~~

(3) the Department issues a new cemetery authority license upon application of the newly controlled corporation or partnership, which license must be applied for at least 30 days prior to the anticipated date of the sale or transfer, ~~subject to the payment of any delinquencies, if any, as stated in item (2) of this subsection (b).~~

(c) In the event of a sale or transfer of any cemetery

land, including any portion of cemetery land in which no human remains have been interred, a licensee shall, at least 45 days prior to the sale or transfer, notify the Department, in writing, of the pending sale or transfer. With the notification, the cemetery authority shall submit information to the Department, which may include a copy of a portion of the cemetery map showing the land to be sold or transferred, to enable the Department to determine whether any human remains are interred, inurned, or entombed within the land to be sold or transferred and whether consumers have rights of interment, inurnment, or entombment within the land to be sold or transferred.

(d) For purposes of this Section, a person who acquires the cemetery through a real estate foreclosure shall be subject to the provisions of this Section pertaining to the purchaser, including licensure.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-50)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-50. Dissolution. Where any licensed cemetery authority or any trustee thereof seeks ~~has accepted care funds within the meaning of this Act, and dissolution is sought by such cemetery authority~~ in any manner, by resolution of such cemetery authority, or the trustees thereof, notice shall be given to the Department of such intention to dissolve ~~and~~

~~proper disposition shall be made of the care funds so held for the general benefit of such lot owners by or for the benefit of such cemetery authority, as provided by law, or in accordance with the trust provisions of any gift, grant, contribution, payment, legacy, or pursuant to any contract whereby such funds were created.~~ The Department, represented by the Attorney General, may apply to the circuit court for the appointment of a receiver, ~~trustee, successor in trust,~~ or for directions of such court as to the proper ~~disposition to be made of such care funds, to the end that the uses and purposes for which such trust or care funds were created may be accomplished, and for~~ ~~proper~~ continued operation of the cemetery.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-55)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-55. Fees.

(a) Except as provided in ~~subsection (b) of~~ this Section, the fees for the administration and enforcement of this Act, ~~including, but not limited to, original licensure, renewal, and restoration fees,~~ shall be set by the Department by rule. The fees shall be reasonable and shall not be refundable.

(b) Cemetery manager applicants and customer service employee applicants shall pay any certification program or continuing education program fee directly to the entity offering the program.

(c) The Department may waive fees based upon hardship.

(d) Nothing shall prohibit a cemetery authority from paying, on behalf of its cemetery managers or customer service employees, their application, renewal, or restoration fees.

~~(b) Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination.~~

(e) ~~(e)~~ All fees and other moneys collected under this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

(f) The fee for application as a cemetery authority seeking a full exemption is \$0.

(g) The fee to renew registration as a fully exempt cemetery authority is \$0. As provided in Section 10-40 of this Act and as further refined by rule, each registration as a fully exempt cemetery authority shall expire every 4 years.

(h) The fee for application as a cemetery authority seeking a partial exemption is \$150.

(i) The fee to renew registration as a partially exempt cemetery authority is \$150. As provided in Section 10-40 of this Act and as further refined by rule, each registration as a partially exempt cemetery authority shall expire every 4 years.

(j) The fee for original licensure, renewal, and restoration as a cemetery authority not seeking a full or partial exemption is \$75. As provided in Section 10-40 of this Act and as further refined by rule, each cemetery authority

license shall expire every 2 years.

(k) The fee for original licensure, renewal, and restoration as a cemetery manager is \$25. As provided in Section 10-40 of this Act and as further refined by rule, each cemetery manager license shall expire every 2 years.

(l) The fee for original licensure, renewal, and restoration as a customer service employee is \$25. As provided in Section 10-40 of this Act and as further refined by rule, each customer service employee license shall expire every 2 years.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-5)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-5. Maintenance and records.

(a) A cemetery authority shall provide reasonable maintenance of the cemetery property and of all lots, graves, crypts, and columbariums in the cemetery based on the type and size of the cemetery, topographic limitations, and contractual commitments with consumers. Subject to the provisions of this subsection (a), reasonable maintenance includes:

(1) the laying of seed, sod, or other suitable ground cover as soon as practical following an interment given the weather conditions, climate, and season and the interment's proximity to ongoing burial activity;

(2) the cutting of lawn throughout the cemetery at

reasonable intervals to prevent an overgrowth of grass and weeds given the weather conditions, climate, and season;

(3) the trimming of shrubs to prevent excessive overgrowth;

(4) the trimming of trees to remove dead limbs;

(5) maintaining, repairing, or removing, if necessary, drains, water lines, roads, buildings, fences, and other structures ~~keeping in repair the drains, water lines, roads, buildings, fences, and other structures;~~ and

(6) keeping the cemetery premises free of trash and debris.

In determining whether a cemetery authority provides reasonable maintenance of the cemetery property, the Department shall consider:

(1) the cemetery authority's contractual obligations for care and maintenance;

(2) the size of the cemetery;

(3) the extent and use of the cemetery authority's financial resources;

(4) the standard of maintenance of one or more similarly situated cemeteries; in determining whether a cemetery is similarly situated, the Department shall consider the cemetery's size, location, topography, and financial resources, and whether the cemetery is a fraternal cemetery, a religious cemetery, a public cemetery, a cemetery owned and operated by a cemetery

association, or a licensed cemetery.

Reasonable maintenance by the cemetery authority shall not preclude the exercise of lawful rights by the owner of an interment, inurnment, or entombment right, or by the decedent's immediate family or other heirs, in accordance with reasonable rules and regulations of the cemetery or other agreement of the cemetery authority.

In the case of a cemetery dedicated as a nature preserve under the Illinois Natural Areas Preservation Act, reasonable maintenance by the cemetery authority shall be in accordance with the rules and master plan governing the dedicated nature preserve.

~~The Department shall adopt rules to provide greater detail as to what constitutes the reasonable maintenance required under this Section. The rules shall differentiate between cemeteries based on, among other things, the size and financial strength of the cemeteries. The rules shall also provide a reasonable opportunity for a cemetery authority accused of violating the provisions of this Section to cure any such violation in a timely manner given the weather conditions, climate, and season before the Department initiates formal proceedings.~~

A cemetery authority accused of violating the reasonable maintenance standard set forth in this Section shall have a reasonable opportunity to cure the violation. The cemetery authority shall have 10 business days after receipt of notice

to cure the violation. If a cemetery authority cannot cure the violation within 10 business days, then the cemetery authority may request a time extension in order to cure the violation. The request for an extension shall be made in writing to the Department and must be postmarked within 10 business days after receipt of the notice of the alleged violation. The request shall outline all reasons for the extension and an estimated date by which the cure will be accomplished. Acceptable reasons include, without limitation, delays caused by weather conditions, season or climate, equipment failures, or acquisitions of materials or supplies being addressed by the authority in a timely manner, and unexpected temporary absences of personnel. The Department may approve or deny the extension. If the extension is denied, then the cemetery authority must cure the violation within 10 business days after the date of receipt of the Department's extension denial. If the extension is granted, then the cemetery authority must cure the violation within the extended period of time. A cemetery authority that does not cure the violation within the appropriate period of time shall be subject to discipline in accordance with Article 25 of this Act.

(b) A cemetery authority, before commencing cemetery operations or within 6 months after the effective date of this Act, shall cause an overall map of its cemetery property, delineating all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their respective designations, to

be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business. The cemetery authority shall update its map and index described in subsection (b-5) within a reasonable time after any expansion or alteration of the cemetery property. A cemetery manager's certificate acknowledging, accepting, and adopting the map shall also be included with the map. The Department may order that the cemetery authority obtain a cemetery plat and that it be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business if only in the following circumstances: (1) ~~the cemetery authority is expanding or altering the cemetery grounds; or (2)~~ a human body that should have been interred, entombed, or inurned at the cemetery after the effective date of this amendatory Act of the 97th General Assembly is missing, displaced, or dismembered and (2) the cemetery map contains serious discrepancies.

In exercising this discretion, the Department shall consider whether the cemetery authority would experience an undue hardship as a result of obtaining the plat. The cemetery plat, as with all plats prepared under this Act, shall comply with the Illinois Professional Land Surveyor Act of 1989 and shall delineate, describe, and set forth all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their respective designations. A cemetery manager's certificate acknowledging, accepting, and adopting the plat shall also be included with the plat.

(b-5) A cemetery authority shall maintain an index that associates the identity of deceased persons interred, entombed, or inurned after the effective date of this Act with their respective place of interment, entombment, or inurnment.

(c) The cemetery authority shall open the cemetery map or plat to public inspection. The cemetery authority shall make available a copy of the overall cemetery map or plat upon written request and shall, if practical, provide a copy of a segment of the cemetery plat where interment rights are located upon the payment of reasonable photocopy fees. Any unsold lots, plots, or parts thereof, in which there are not human remains, may be resurveyed and altered in shape or size and properly designated on the cemetery map or plat. However, sold lots, plots, or parts thereof in which there are human remains may not be renumbered or renamed. Nothing contained in this subsection, however, shall prevent the cemetery authority from enlarging an interment right by selling to its owner the excess space next to the interment right and permitting interments therein, provided reasonable access to the interment right and to adjoining interment rights is not thereby eliminated.

(d) A cemetery authority shall keep a record of every interment, entombment, and inurnment completed after the effective date of this Act. The record shall include the deceased's name, age, date of burial, and the specific location of the interred, entombed, or inurned human remains. The specific location shall correspond to the map or plat

~~maintained in accordance with subsection (b) of this Section and parcel identification number identifying where the human remains are interred, entombed, or inurned. The record shall also include the unique personal identifier as may be further defined by rule, which is the parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death.~~

(e) (Blank).

(f) A cemetery authority shall make available for inspection and, upon reasonable request and the payment of a reasonable copying fee, provide a copy of its rules and regulations. A cemetery authority shall make available for viewing and provide a copy of its current prices of interment, inurnment, or entombment rights.

(g) A cemetery authority shall provide access to the cemetery under the cemetery authority's reasonable rules and regulations.

(h) A cemetery authority shall be responsible for the proper opening and closing of all graves, crypts, or niches for human remains in any cemetery property it owns.

(i) ~~A Any corporate or other business organization trustee of the care funds of every licensed cemetery authority shall be located in or a resident of this State. The~~ licensed cemetery authority ~~and the trustee of care funds~~ shall keep in this State and use in its business such ~~books, accounts, and records~~

as will enable the Department to determine whether such licensee or trustee is complying with the provisions of this Act and with the rules, regulations, and directions made by the Department under this Act. The licensed cemetery authority shall keep the ~~books, accounts, and~~ records in electronic or written format at the location identified in the license issued by the Department or as otherwise agreed by the Department in writing. The books, accounts, and records shall be accessible for review upon demand of the Department.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-6)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-6. Cemetery Oversight Database.

(a) Within 10 business days after an interment, entombment, or inurnment of human remains, the cemetery manager shall cause a record of the interment, entombment, or inurnment to be entered into the Cemetery Oversight Database. The requirement of this subsection (a) also applies in any instance in which human remains are relocated.

(b) Within 9 months after the effective date of this Act, the Department shall certify a database as the Cemetery Oversight Database. Upon certifying the database, the Department shall:

(1) provide reasonable notice to cemetery authorities identifying the database; and

(2) immediately upon certification, require each cemetery authority to use the Cemetery Oversight Database as a means of complying with subsection (a).

(c) In certifying the Cemetery Oversight Database, the Department shall ensure that the database:

(1) provides real-time access through an Internet connection or, if real-time access through an Internet connection becomes unavailable due to technical problems with the Cemetery Oversight Database incurred by the database provider or if obtaining use of an Internet connection would be an undue hardship on the cemetery authority, through alternative mechanisms, including, but not limited to, telephone;

(2) is accessible to the Department and to cemetery managers in order to ensure compliance with this Act and in order to provide any other information that the Department deems necessary;

(3) requires cemetery authorities to input whatever information required by the Department;

(4) maintains a real-time copy of the required reporting information that is available to the Department at all times and is the property of the Department; and

(5) contains safeguards to ensure that all information contained in the Cemetery Oversight Database is secure.

(d) A cemetery authority may rely on the information contained in the Cemetery Oversight Database as accurate and is

not subject to any administrative penalty or liability as a result of relying on inaccurate information contained in the database.

(e) The Cemetery Oversight Database provider shall indemnify cemetery authorities against all claims and actions arising from illegal, willful, or wanton acts on the part of the Database provider. The Cemetery Oversight Database provider shall at all times maintain an electronic backup copy of the information it receives pursuant to subsection (a).

(f) In the event the provider of the database imposes a fee for entries into the database, the fee shall be paid directly by the Department to the provider, and the fee may not be imposed upon cemetery authorities making entries into the database. However, the provider need not refund any entry fees paid by cemetery authorities prior to the effective date of this amendatory Act of the 97th General Assembly.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-10)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-10. Contract. At the time cemetery arrangements are made and prior to rendering the cemetery services, a cemetery authority shall create a written contract to be provided to the consumer, signed by both parties, that shall contain: (i) ~~contact information, as set out in Section 20-11,~~ and the date on which the arrangements were made; (ii) the

price of the service selected and the services and merchandise included for that price; (iii) the supplemental items of service and merchandise requested and the price of each item; (iv) the terms or method of payment agreed upon; and (v) a statement as to any monetary advances made on behalf of the family. The cemetery authority shall maintain a copy of such written contract in its permanent records.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-35 new)

Sec. 20-35. Stacking; burial or interment of an unknown individual or unknown body part.

(a) The stacking of caskets underground of any individual is limited to no more than 3 caskets in one grave space with the exception of an arrangement made pursuant to a lawful contract with a consumer that complies with the requirements of Section 20-10 of this Act.

(b) Burials and interments of unknown individuals or unknown body parts must be entered into the Cemetery Oversight Database as provided in Section 20-6 of this Act.

(225 ILCS 411/20-40 new)

Sec. 20-40. Burial of multiple persons. A cemetery authority shall not knowingly bury human remains from multiple persons, known or unknown, in the same casket or grave space with the exception of (1) human remains that are placed in

individual containers, (2) a mass casualty event, either natural or man-made, or (3) an arrangement made pursuant to a lawful contract with a consumer that complies with the requirements of Section 20-10 of this Act.

(225 ILCS 411/25-10)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-10. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$8,000 ~~\$10,000~~ for each violation, with regard to any license under this Act, for any one or combination of the following:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act, except for Section 20-8, or of the rules adopted under this Act.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime within the last 10 years that is a Class X felony or higher or is a felony involving fraud and dishonesty under the laws of the United States or any state or territory thereof.

(4) Making any misrepresentation for the purpose of obtaining licensure or violating any provision of this Act or the rules adopted under this Act.

(5) Professional incompetence.

(6) Gross malpractice.

(7) Aiding or assisting another person in violating any provision of this Act or rules adopted under this Act.

(8) Failing, within 10 business days, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(10) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use of alcohol, narcotics, stimulants, or any other chemical agent or drug.

(11) Discipline by another agency, state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(13) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(14) Willfully making or filing false records or reports in his or her practice, including, but not limited to, false records filed with any governmental agency or department.

(15) Inability to practice the profession with reasonable judgment, skill, or safety.

(16) Failure to ~~file an annual report or to maintain in effect the required bond or to~~ comply with an order, decision, or finding of the Department made pursuant to this Act.

(17) Directly or indirectly receiving compensation for any professional services not actually performed.

(18) Practicing under a false or, except as provided by law, an assumed name.

(19) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(20) Cheating on or attempting to subvert the licensing examination administered under this Act.

(21) Unjustified failure to honor its contracts.

(22) Negligent supervision of a cemetery manager, customer service employee, employee ~~cemetery worker~~, or independent contractor.

(23) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(24) Allowing an individual who is not, but is required to be, licensed under this Act to perform work for the cemetery authority.

(25) (Blank). ~~Allowing an individual who has not, but is required to, submit a Worker's Statement in accordance with Section 10-22 of this Act to perform work at the cemetery.~~

(b) No action may be taken under this Act against a person licensed under this Act unless the action is commenced within 5 years after the occurrence of the alleged violations, except for a violation of item (3) of subsection (a) of this Section. If a person licensed under this Act violates item (3) of subsection (a) of this Section, then the action may commence within 10 years after the occurrence of the alleged violation. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-14)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-14. Mandatory reports.

(a) If a cemetery authority receives a consumer complaint that is not resolved to the satisfaction of the consumer within 60 days of the complaint, the cemetery authority shall advise the consumer of the right to seek investigation by the

Department and may direct the consumer to the sign posted in its office as required by Section 20-30 of this Act. ~~shall report the consumer complaint to the Department within the next 30 days.~~ Cemetery authorities shall report to the Department within 30 days after the settlement of ~~any liability insurance claim or cause of action,~~ or final judgment in any cause of action, that alleges negligence, fraud, theft, misrepresentation, misappropriation, or breach of contract.

(b) The State's Attorney of each county shall report to the Department all instances in which an individual licensed as a cemetery manager or customer service employee, or any individual listed on a licensed cemetery authority's application under this Act, is convicted or otherwise found guilty of the commission of any felony. The report shall be submitted to the Department within 60 days after conviction or finding of guilty.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-14.5 new)

Sec. 25-14.5. Comptroller report. The Comptroller shall annually provide a report to the Department with the total amount of trust funds reported by a cemetery authority licensed under the Cemetery Care Act, the Illinois Pre-Need Cemetery Sales Act, or the Illinois Funeral or Burial Funds Act and provide other information about a cemetery authority upon the request of the Department. Additionally, the Comptroller shall

report to the Department any adverse action taken against a cemetery authority under the Cemetery Care Act, the Illinois Pre-Need Cemetery Sales Act, or the Illinois Funeral or Burial Funds Act.

(225 ILCS 411/25-25)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-25. Investigations, notice, hearings.

(a) The Department may at any time investigate the actions of any applicant or of any person or persons rendering or offering to render services as a cemetery authority, cemetery manager, or customer service employee of or any person holding or claiming to hold a license as a licensed cemetery authority, cemetery manager, or customer service employee. If it appears to the Department that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this Act, then the Department may: (1) require that person to file on such terms as the Department prescribes a statement or report in writing, under oath or otherwise, containing all information the Department may consider necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required; (2) examine under oath any individual in connection with the books and records pertaining to or having an impact upon the operation of a cemetery ~~or trust funds required to be maintained pursuant to this Act~~; (3) examine any

books and records of the licensee, ~~trustee, or investment adviser~~ that the Department may consider necessary to ascertain compliance with this Act; and (4) require the production of a copy of any record, book, document, account, or paper that is produced in accordance with this Act and retain it in his or her possession until the completion of all proceedings in connection with which it is produced.

(b) The Secretary may, after 10 days notice by certified mail with return receipt requested to the licensee at the address of record or to the last known address of any other person stating the contemplated action and in general the grounds therefor, fine such licensee an amount not exceeding \$10,000 per violation or revoke, suspend, refuse to renew, place on probation, or reprimand any license issued under this Act if he or she finds that:

(1) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or

(2) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.

(c) The Secretary may fine, revoke, suspend, refuse to renew, place on probation, reprimand, or take any other disciplinary action as to the particular license with respect

to which grounds for the fine, revocation, suspension, refuse to renew, probation, or reprimand, or other disciplinary action occur or exist, but if the Secretary finds that grounds for revocation are of general application to all offices or to more than one office of the licensee, the Secretary shall fine, revoke, suspend, refuse to renew, place on probation, reprimand, or otherwise discipline every license to which such grounds apply.

(d) In every case in which a license is revoked, suspended, placed on probation, reprimanded, or otherwise disciplined, the Secretary shall serve the licensee with notice of his or her action, including a statement of the reasons for his or her actions, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record.

(e) An order assessing a fine, an order revoking, suspending, placing on probation, or reprimanding a license or, an order denying renewal of a license shall take effect upon service of the order unless the licensee requests, in writing, within 20 days after the date of service, a hearing. In the event a hearing is requested, an order issued under this Section shall be stayed until a final administrative order is entered.

(f) If the licensee requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a

hearing unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing.

(g) The hearing shall be held at the time and place designated by the Secretary.

(h) The Secretary shall have the authority to prescribe rules for the administration of this Section.

(i) Fines imposed and any costs assessed shall be paid within 60 days.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-70)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-70. Receivership. In the event a cemetery authority license is suspended or revoked or where an unlicensed person has conducted activities requiring cemetery authority licensure under this Act, the Department, through the Attorney General, may petition the circuit courts of this State for appointment of a receiver to ~~administer the care funds of such licensee or unlicensed person or to~~ operate the cemetery.

(a) The court shall appoint a receiver if the court determines that a receivership is necessary or advisable:

(1) to ensure the orderly and proper conduct of a

licensee's professional business and affairs during or in the aftermath of the administrative proceeding to revoke or suspend the cemetery authority's license;

(2) for the protection of the public's interest and rights in the business, premises, or activities of the person sought to be placed in receivership;

(3) upon a showing of actual or constructive abandonment of premises or business licensed or which was not but should have been licensed under this Act;

(4) upon a showing of serious and repeated violations of this Act demonstrating an inability or unwillingness of a licensee to comply with the requirements of this Act;

(5) to prevent loss, wasting, dissipation, theft, or conversion of assets that should be marshaled and held available for the honoring of obligations under this Act;
or

(6) upon proof of other grounds that the court deems good and sufficient for instituting receivership action concerning the respondent sought to be placed in receivership.

(b) A receivership under this Section may be temporary, or for the winding up and dissolution of the business, as the Department may request and the court determines to be necessary or advisable in the circumstances. Venue of receivership proceedings may be, at the Department's election, in Cook County or the county where the subject of the receivership is

located. The appointed receiver shall be the Department or such person as the Department may nominate and the court shall approve.

(c) The Department may adopt rules for the implementation of this Section.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-75)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-75. Cemetery Relief Fund.

(a) A special income-earning fund is hereby created in the State treasury, known as the Cemetery Relief Fund.

(b) Beginning on July 1, 2011, and occurring on an annual basis every year thereafter, three percent of the moneys in the Cemetery Oversight Licensing and Disciplinary Fund shall be deposited into the Cemetery Relief Fund.

(c) All monies deposited into the fund together with all accumulated undistributed income thereon shall be held as a special fund in the State treasury. The fund shall be used solely for the purpose of providing grants to units of local government and not-for-profit organizations, including, but not limited to, not-for-profit cemetery authorities, to clean up cemeteries that have been abandoned, neglected, or are otherwise in need of additional care.

(d) The grant program shall be administered by the Department.

(e) In the event there is a structural surplus in the Cemetery Oversight Licensing and Disciplinary Fund, the Department may expend moneys out of the Cemetery Oversight Licensing and Disciplinary Fund for the purposes described in subsection (c) of this Section.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-105)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-105. Violations. Each of the following acts is a Class A misdemeanor for the first offense and a Class 4 felony for each subsequent offense:

(1) the practice of or attempted practice of or holding out as available to practice as a cemetery authority, cemetery manager, or customer service employee without a license; or

(2) the obtaining of or the attempt to obtain any license or authorization under this Act by fraud or misrepresentation. ~~Any person who is found to have violated any provision of this Act or any applicant for licensure who files with the Department the fingerprints of an individual other than himself or herself is guilty of a Class A misdemeanor. Upon conviction of a second or subsequent offense the violator shall be guilty of a Class 4 felony. However, whoever intentionally fails to deposit the required amounts into a trust provided for in this Act~~

~~or intentionally and improperly withdraws or uses trust funds for his or her own benefit shall be guilty of a Class 4 felony and each day such provisions are violated shall constitute a separate offense.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-110)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-110. Civil action and civil penalties. In addition to the other penalties and remedies provided in this Act, the Department may bring a civil action in the county in which the cemetery is located against a licensee or any other person to enjoin any violation or threatened violation of this Act. In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$8,000 ~~\$10,000~~ for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act. Any civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record. All moneys collected under this Section shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-120)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-120. Whistleblower protection.

(a) "Retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any cemetery manager, licensed customer service employee, or employee ~~cemetery worker~~ that is taken in retaliation for a cemetery manager's, customer service employee's, or employee's ~~cemetery worker's~~ involvement in protected activity, as set forth in this Section.

(b) A cemetery authority shall not take any retaliatory action against a cemetery manager, customer service employee, or employee ~~cemetery worker~~ because the cemetery manager, customer service employee, or employee ~~cemetery worker~~ does any of the following:

(1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of a cemetery manager, customer service employee, or the cemetery authority that the cemetery manager, customer service employee, or employee ~~cemetery worker~~ reasonably believes is in violation of a law, rule, or regulation.

(2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by

a cemetery manager or cemetery authority.

(3) Assists or participates in a proceeding to enforce the provisions of this Act.

(c) A violation of this Section may be established only upon a finding that (i) the cemetery manager, customer service employee, or employee ~~cemetery worker~~ engaged in conduct described in subsection (b) of this Section and (ii) that this conduct was a contributing factor in the retaliatory action alleged by the cemetery manager, customer service employee, or employee ~~cemetery worker~~. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the cemetery manager or cemetery authority would have taken the same unfavorable personnel action in the absence of that conduct.

(d) The cemetery manager, customer service employee, or employee ~~cemetery worker~~ may be awarded all remedies necessary to make the cemetery manager, customer service employee, or employee ~~cemetery worker~~ whole and to prevent future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:

(1) reinstatement of the individual to either the same position held before the retaliatory action or to an equivalent position;

(2) two times the amount of back pay;

(3) interest on the back pay;

(4) the reinstatement of full fringe benefits and

seniority rights; and

(5) the payment of reasonable costs and attorneys' fees.

(e) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of a cemetery manager, customer service employee, or employee ~~cemetery worker~~ under any other federal or State law, rule, or regulation or under any employment contract.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-125)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-125. Cemetery Oversight Board. The Cemetery Oversight Board is created and shall consist of the Secretary, who shall serve as its chairperson, and 8 members appointed by the Secretary. Appointments shall be made within 90 days after the effective date of this Act. Three members shall represent the segment of the cemetery industry that does not maintain a partial exemption or full exemption, one member shall represent the segment of the cemetery industry that maintains a partial exemption as a public cemetery, one member shall represent the segment of the cemetery industry that maintains a partial exemption as a religious cemetery, 2 members shall be consumers as defined in this Act, and one member shall represent the general public. No member shall be a licensed professional from a non-cemetery segment of the death care industry. Board

members shall serve 5-year terms and until their successors are appointed and qualified. The membership of the Board should reasonably reflect representation from the geographic areas in this State. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 10 successive years. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term. Five members of the Board shall constitute a quorum. A quorum is required for Board decisions. The Secretary may remove any member of the Board for misconduct, incompetence, neglect of duty, or for reasons prescribed by law for removal of State officials. The Secretary may remove a member of the Board who does not attend 2 consecutive meetings. The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act. The Secretary shall consider the recommendations of the Board in the development of proposed rules under this Act and in the approval of entities seeking to offer certification programs to cemetery manager applicants and customer service employee applicants ~~and for establishing guidelines and examinations as may be required under this Act.~~ Notice of any proposed rulemaking under this Act and applications submitted by entities seeking to offer certification programs shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made therein.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-50)

(Section scheduled to be repealed on January 1, 2021)

Sec. 75-50. Burial permits. Notwithstanding any law to the contrary, ~~a cemetery authority shall ensure that every burial permit shall contain applicable to that cemetery authority contains the decedent's parcel identification number or other information as provided by rule~~ regarding the location of the interment, entombment, or inurnment of the deceased that would enable the Department to determine the precise location of the decedent.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-55)

(Section scheduled to be repealed on January 1, 2021)

Sec. 75-55. Transition.

(a) (Blank). ~~Within 60 days after the effective date of this Act, the Comptroller shall provide the Department copies of records in the Comptroller's possession pertaining to the Cemetery Care Act and the Crematory Regulation Act that are necessary for the Department's immediate responsibilities under this Act. All other records pertaining to the Cemetery Care Act with the exception of records pertaining to care funds.~~

(b) (Blank).

(c) All cemeteries not maintaining a full exemption or partial exemption shall pay a one-time fee to the Department, due no later than December 15, 2010, equal to \$20 plus an additional charge of \$1 for each burial performed within the cemetery during calendar year 2009. ~~To support the costs that may be associated with implementing and maintaining a licensure and regulatory process for the licensure and regulation of cemetery authorities, cemetery managers, customer service employees, and cemetery workers, all cemetery authorities not maintaining a full exemption or partial exemption shall pay a one-time fee of \$20 to the Department plus an additional charge of \$1 per burial unit per year within the cemetery. The Department may establish forms for the collection of the fee established under this subsection and shall deposit such fee into the Cemetery Oversight Licensing and Disciplinary Fund. The Department may begin to collect the aforementioned fee after the effective date of this Act. In addition, the Department may establish rules for the collection process, which may include, but shall not be limited to, dates, forms, enforcement, or other procedures necessary for the effective collection, deposit, and overall process regarding this Section.~~

(d) All fees collected under this Section prior to the effective date of this amendatory Act of the 97th General Assembly shall not be refunded. ~~Any cemetery authority that fails to pay to the Department the required fee or submits the~~

~~incorrect amount shall be subject to the penalties provided for in Section 25-110 of this Act.~~

(e) (Blank). ~~Except as otherwise specifically provided, all fees, fines, penalties, or other moneys received or collected pursuant to this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.~~

(f) (Blank).

(g) (Blank).

(Source: P.A. 96-863, eff. 3-1-10; 97-593, eff. 8-26-11.)

(225 ILCS 411/10-10 rep.)

(225 ILCS 411/10-22 rep.)

(225 ILCS 411/Art. 15 rep.)

(225 ILCS 411/20-11 rep.)

(225 ILCS 411/20-25 rep.)

(225 ILCS 411/Art. 22 rep.)

(225 ILCS 411/25-13 rep.)

(225 ILCS 411/90-90 rep.)

(225 ILCS 411/90-95 rep.)

Section 27. The Cemetery Oversight Act is amended by repealing Sections 10-10, 10-22, 20-11, 20-25, 25-13, 90-90, and 90-95 and Articles 15 and 22.

Section 30. The Crematory Regulation Act is amended by changing Sections 5, 7, 10, 11, 11.5, 13, 14, 20, 22, 25, 40, 55, 60, 62, 62.5, 62.10, 62.15, 62.20, 65, 80, 85, 87, 88, 89,

90, 91, 92, and 94 as follows:

(410 ILCS 18/5)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5. Definitions. As used in this Act:

"Address of record" means the designated address recorded by the Comptroller in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Comptroller of any change of address within 14 days, and such changes must be made either through the Comptroller's website or by contacting the Comptroller. The address of record shall be the permanent street address of the crematory.

"Alternative container" means a receptacle, other than a casket, in which human remains are transported to the crematory and placed in the cremation chamber for cremation. An alternative container shall be (i) composed of readily combustible or consumable materials suitable for cremation, (ii) able to be closed in order to provide a complete covering for the human remains, (iii) resistant to leakage or spillage, (iv) rigid enough for handling with ease, and (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

"Authorizing agent" means a person legally entitled to order the cremation and final disposition of specific human

remains.

"Body parts" means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.

"Burial transit permit" means a permit for disposition of a dead human body as required by Illinois law.

"Casket" means a rigid container that is designed for the encasement of human remains, is usually constructed of wood, metal, or like material and ornamented and lined with fabric, and may or may not be combustible.

~~"Change of ownership" means a transfer of more than 50% of the stock or assets of a crematory authority.~~

"Comptroller" means the Comptroller of the State of Illinois.

"Cremated remains" means all human remains recovered after the completion of the cremation, which may possibly include the residue of any foreign matter including casket material, bridgework, or eyeglasses, that was cremated with the human remains.

"Cremation" means the technical process, using heat and flame, or alkaline hydrolysis that reduces human remains to bone fragments. The reduction takes place through heat and evaporation or through hydrolysis. Cremation shall include the processing, and may include the pulverization, of the bone

fragments.

"Cremation chamber" means the enclosed space within which the cremation takes place.

"Cremation interment container" means a rigid outer container that, subject to a cemetery's rules and regulations, is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground, and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

"Cremation room" means the room in which the cremation chamber is located.

"Crematory" means the building or portion of a building that houses the cremation room and the holding facility.

"Crematory authority" means the legal entity which is licensed by the Comptroller to operate a crematory and to perform cremations.

~~"Department" means the Illinois Department of Public Health.~~

"Final disposition" means the burial, cremation, or other disposition of a dead human body or parts of a dead human body.

"Funeral director" means a person known by the title of "funeral director", "funeral director and embalmer", or other similar words or titles, licensed by the State to practice funeral directing or funeral directing and embalming.

"Funeral establishment" means a building or separate

portion of a building having a specific street address and location and devoted to activities relating to the shelter, care, custody, and preparation of a deceased human body and may contain facilities for funeral or wake services.

"Holding facility" means an area that (i) is designated for the retention of human remains prior to cremation, (ii) complies with all applicable public health law, (iii) preserves the health and safety of the crematory authority personnel, and (iv) is secure from access by anyone other than authorized persons. A holding facility may be located in a cremation room.

"Human remains" means the body of a deceased person, including any form of body prosthesis that has been permanently attached or implanted in the body.

"Licensee" means an entity licensed under this Act. An entity that holds itself as a licensee or that is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Niche" means a compartment or cubicle for the memorialization and permanent placement of an urn containing cremated remains.

"Person" means any person, partnership, association, corporation, limited liability company, or other entity, and in the case of any such business organization, its officers, partners, members, or shareholders possessing 25% or more of ownership of the entity.

"Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual or mechanical means.

"Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation process to granulated particles by manual or mechanical means.

"Scattering area" means an area which may be designated by a cemetery and located on dedicated cemetery property where cremated remains, which have been removed from their container, can be mixed with, or placed on top of, the soil or ground cover.

"Temporary container" means a receptacle for cremated remains, usually composed of cardboard, plastic or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.

"Urn" means a receptacle designed to encase the cremated remains.

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5. Definitions. As used in this Act:

"Address of record" means the designated address recorded

by the Comptroller ~~Department~~ in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Comptroller ~~Department~~ of any change of address within 14 days, and such changes must be made either through the Comptroller's ~~Department's~~ website or by contacting the Comptroller ~~Department's~~ ~~licensure maintenance unit~~. The address of record shall be the permanent street address of the crematory.

"Alternative container" means a receptacle, other than a casket, in which human remains are transported to the crematory and placed in the cremation chamber for cremation. An alternative container shall be (i) composed of readily combustible or consumable materials suitable for cremation, (ii) able to be closed in order to provide a complete covering for the human remains, (iii) resistant to leakage or spillage, (iv) rigid enough for handling with ease, and (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

"Authorizing agent" means a person legally entitled to order the cremation and final disposition of specific human remains.

"Body parts" means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.

"Burial transit permit" means a permit for disposition of a dead human body as required by Illinois law.

"Casket" means a rigid container that is designed for the encasement of human remains, is usually constructed of wood, metal, or like material and ornamented and lined with fabric, and may or may not be combustible.

"Comptroller" means the Comptroller of the State of Illinois.

"Cremated remains" means all human remains recovered after the completion of the cremation, which may possibly include the residue of any foreign matter including casket material, bridgework, or eyeglasses, that was cremated with the human remains.

"Cremation" means the technical process, using heat and flame, or alkaline hydrolysis that reduces human remains to bone fragments. The reduction takes place through heat and evaporation or through hydrolysis. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"Cremation chamber" means the enclosed space within which the cremation takes place.

"Cremation interment container" means a rigid outer container that, subject to a cemetery's rules and regulations, is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground, and which is designed to withstand prolonged

exposure to the elements and to support the earth above the urn.

"Cremation room" means the room in which the cremation chamber is located.

"Crematory" means the building or portion of a building that houses the cremation room and the holding facility.

"Crematory authority" means the legal entity which is licensed by the Comptroller ~~Department~~ to operate a crematory and to perform cremations.

~~"Department" means the Illinois Department of Financial and Professional Regulation.~~

"Final disposition" means the burial, cremation, or other disposition of a dead human body or parts of a dead human body.

"Funeral director" means a person known by the title of "funeral director", "funeral director and embalmer", or other similar words or titles, licensed by the State to practice funeral directing or funeral directing and embalming.

"Funeral establishment" means a building or separate portion of a building having a specific street address and location and devoted to activities relating to the shelter, care, custody, and preparation of a deceased human body and may contain facilities for funeral or wake services.

"Holding facility" means an area that (i) is designated for the retention of human remains prior to cremation, (ii) complies with all applicable public health law, (iii) preserves the health and safety of the crematory authority personnel, and

(iv) is secure from access by anyone other than authorized persons. A holding facility may be located in a cremation room.

"Human remains" means the body of a deceased person, including any form of body prosthesis that has been permanently attached or implanted in the body.

"Licensee" means an entity licensed under this Act. An entity that holds itself as a licensee or that is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Niche" means a compartment or cubicle for the memorialization and permanent placement of an urn containing cremated remains.

"Person" means any person, partnership, association, corporation, limited liability company, or other entity, and in the case of any such business organization, its officers, partners, members, or shareholders possessing 25% or more of ownership of the entity.

"Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual or mechanical means.

"Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation process to granulated particles by manual or mechanical means.

"Scattering area" means an area which may be designated by a cemetery and located on dedicated cemetery property where

cremated remains, which have been removed from their container, can be mixed with, or placed on top of, the soil or ground cover.

~~"Secretary" means the Secretary of Financial and Professional Regulation.~~

"Temporary container" means a receptacle for cremated remains, usually composed of cardboard, plastic or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.

"Urn" means a receptacle designed to encase the cremated remains.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/7)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 7. Powers and duties of the Comptroller ~~Department~~. Subject to the provisions of this Act, the Comptroller ~~Department~~ may exercise any of the following powers and duties:

- (1) Authorize standards to ascertain the qualifications and fitness of applicants for licensing as licensed crematory authorities and pass upon the

qualifications of applicants for licensure.

(2) Examine and audit a licensed crematory authority's records, crematory, or any other aspects of crematory operation as the Comptroller ~~Department~~ deems appropriate.

(3) Investigate any and all unlicensed activity.

(4) Conduct hearings on proceedings to refuse to issue licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees and to refuse to issue licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees.

(5) Formulate rules required for the administration of this Act.

(6) Maintain rosters of the names and addresses of all licensees, and all entities whose licenses have been suspended, revoked, or otherwise disciplined. These rosters shall be available upon written request and payment of the required fee ~~as established by rule~~.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/10)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10. Establishment of crematory and licensing of crematory authority.

(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership,

joint venture, voluntary organization or any other entity, may erect, maintain, and operate a crematory in this State and provide the necessary appliances and facilities for the cremation of human remains in accordance with this Act.

(b) A crematory shall be subject to all local, State, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits from the Department of Public Health, the federal Department of Health and Human Services, and the Illinois and federal Environmental Protection Agencies, or such other appropriate local, State, or federal agencies.

(c) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment, or at any other location consistent with local zoning regulations.

(d) An application for licensure as a crematory authority shall be in writing on forms furnished by the Comptroller. Applications shall be accompanied by a fee of \$50 and shall contain all of the following:

(1) The full name and address, both residence and business, of the applicant if the applicant is an individual; the full name and address of every member if the applicant is a partnership; the full name and address of every member of the board of directors if the applicant is an association; and the name and address of every officer, director, and shareholder holding more than 25% of the corporate stock if the applicant is a corporation.

(2) The address and location of the crematory.

(3) A description of the type of structure and equipment to be used in the operation of the crematory, including the operating permit number issued to the cremation device by the Illinois Environmental Protection Agency.

(3.5) (Blank). ~~Attestation by the owner that cremation services shall be by a person trained in accordance with the requirements of Section 22 of this Act.~~

(3.10) (Blank). ~~A copy of the certification or certifications issued by the certification program to the person or persons who will operate the cremation device.~~

(4) Any further information that the Comptroller reasonably may require.

(e) Each crematory authority shall file an annual report with the Comptroller, accompanied with a \$25 fee, providing (i) an affidavit signed by the owner of the crematory authority that at the time of the report the cremation device was in proper operating condition, (ii) the total number of all cremations performed at the crematory during the past year, (iii) attestation by the licensee that all applicable permits and certifications are valid, ~~and~~ (iv) either (A) any changes required in the information provided under subsection (d) or (B) an indication that no changes have occurred, and (v) any other information that the Comptroller may require. The annual report shall be filed by a crematory authority on or before

March 15 of each calendar year, ~~in the Office of the Comptroller. If the fiscal year of a crematory authority is other than on a calendar year basis, then the crematory authority shall file the report required by this Section within 75 days after the end of its fiscal year. The Comptroller shall, for good cause shown, grant an extension for the filing of the annual report upon the written request of the crematory authority. An extension shall not exceed 60 days.~~ If the fiscal year of a crematory authority is other than on a calendar year basis, then the crematory authority shall file the report required by this Section within 75 days after the end of its fiscal year. If a crematory authority fails to submit an annual report to the Comptroller within the time specified in this Section, the Comptroller shall impose upon the crematory authority a penalty of \$5 for each and every day the crematory authority remains delinquent in submitting the annual report. The Comptroller may abate all or part of the \$5 daily penalty for good cause shown.

(f) All records required to be maintained under this Act, including but not limited to those relating to the license and annual report of the crematory authority required to be filed under this Section, shall be subject to inspection by the Comptroller upon reasonable notice.

(g) The Comptroller may inspect crematory records at the crematory authority's place of business to review the licensee's compliance with this Act. The inspection must

include verification that:

(1) the crematory authority has complied with record-keeping requirements of this Act;

(2) a crematory device operator's certification of training is conspicuously displayed at the crematory;

(3) the cremation device has a current operating permit issued by the Illinois Environmental Protection Agency and the permit is conspicuously displayed in the crematory;

(4) the crematory authority is in compliance with local zoning requirements; and

(5) the crematory authority license issued by the Comptroller is conspicuously displayed at the crematory.

(h) The Comptroller shall issue licenses under this Act to the crematories that are registered with the Comptroller as of March 1, 2012 ~~July 1, 2003~~ without requiring the previously registered crematories to complete license applications.

(Source: P.A. 92-419, eff. 1-1-02; 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10. Establishment of crematory and licensing of crematory authority.

(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity, may erect, maintain, and operate a crematory in this State and

provide the necessary appliances and facilities for the cremation of human remains in accordance with this Act.

(b) A crematory shall be subject to all local, State, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits from the Department of Financial and Professional Regulation, the Department of Public Health, the federal Department of Health and Human Services, and the Illinois and federal Environmental Protection Agencies, or such other appropriate local, State, or federal agencies.

(c) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment, or at any other location consistent with local zoning regulations.

(d) An application for licensure as a crematory authority shall be in writing on forms furnished by the Comptroller Department. Applications shall be accompanied by a ~~reasonable~~ fee of \$50 ~~determined by rule~~ and shall contain all of the following:

(1) The full name and address, both residence and business, of the applicant if the applicant is an individual; the full name and address of every member if the applicant is a partnership; the full name and address of every member of the board of directors if the applicant is an association; and the name and address of every officer, director, and shareholder holding more than 25% of the corporate stock if the applicant is a corporation.

(2) The address and location of the crematory.

(3) A description of the type of structure and equipment to be used in the operation of the crematory, including the operating permit number issued to the cremation device by the Illinois Environmental Protection Agency.

(4) Any further information that the Comptroller ~~Department~~ reasonably may require ~~as established by rule~~.

(e) Each crematory authority shall file an annual report with the Comptroller ~~Department~~, accompanied with a \$25 ~~reasonable fee determined by rule~~, providing (i) an affidavit signed by the owner of the crematory authority that at the time of the report the cremation device was in proper operating condition, (ii) the total number of all cremations performed at the crematory during the past year, (iii) attestation by the licensee that all applicable permits and certifications are valid, (iv) either (A) any changes required in the information provided under subsection (d) or (B) an indication that no changes have occurred, and (v) any other information that the Department may require ~~as established by rule~~. The annual report shall be filed by a crematory authority on or before March 15 of each calendar year. If the fiscal year of a crematory authority is other than on a calendar year basis, then the crematory authority shall file the report required by this Section within 75 days after the end of its fiscal year. If a crematory authority fails to submit an annual report to

the Comptroller ~~Department~~ within the time specified in this Section, the Comptroller ~~Department~~ shall impose upon the crematory authority a penalty of \$5 ~~as provided for by rule~~ for each and every day the crematory authority remains delinquent in submitting the annual report. The Comptroller ~~Department~~ may abate all or part of the \$5 daily penalty for good cause shown.

(f) All records required to be maintained under this Act, including but not limited to those relating to the license and annual report of the crematory authority required to be filed under this Section, shall be subject to inspection by the Comptroller upon reasonable notice.

(g) The Comptroller ~~Department~~ may inspect crematory records at the crematory authority's place of business to review the licensee's compliance with this Act. The inspection must include verification that:

(1) the crematory authority has complied with record-keeping requirements of this Act;

(2) a crematory device operator's certification of training is conspicuously displayed at the crematory;

(3) the cremation device has a current operating permit issued by the Illinois Environmental Protection Agency and the permit is conspicuously displayed in the crematory;

(4) the crematory authority is in compliance with local zoning requirements; and

(5) the crematory authority license issued by the Comptroller ~~Department~~ is conspicuously displayed at the

crematory.

(6) other details as determined by rule.

(h) The Comptroller ~~Department~~ shall issue licenses under this Act to the crematories that are registered with the Comptroller as of on March 1, 2012 without requiring the previously registered crematories to complete license applications.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/11)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 11. Grounds for denial or discipline ~~refusal of license or suspension or revocation of license.~~

(a) In this Section, "applicant" means a person who has applied for a license under this Act, including those persons whose names are listed on a license application in Section 10 of this Act.

(b) The Comptroller may refuse to issue a license, place on probation, reprimand, or take other appropriate disciplinary action that the Comptroller may deem appropriate, including fines not to exceed \$5,000 for each violation, with regard to any license under this Act, or may suspend or revoke a license issued under this Act, on any of the following grounds:

(1) The applicant or licensee has made any misrepresentation or false statement or concealed any

material fact in furnishing information to the Comptroller
~~in connection with a license application or licensure under~~
~~this Act.~~

(2) The applicant or licensee has been engaged in business practices that work a fraud.

(3) The applicant or licensee has refused to give information required under this Act to be disclosed to the Comptroller or failing, within 30 days, to provide information in response to a written request made by the Comptroller.

(4) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. ~~The applicant or licensee has conducted or is about to conduct cremation business in a fraudulent manner.~~

(5) As to any individual listed in the license application as required under Section 10, that individual has conducted or is about to conduct any cremation business on behalf of the applicant in a fraudulent manner or has been convicted of any felony or misdemeanor an essential element of which is fraud.

(6) The applicant or licensee has failed to make the annual report required by this Act or to comply with a final order, decision, or finding of the Comptroller made under this Act.

(7) The applicant or licensee, including any member,

officer, or director of the applicant or licensee if the applicant or licensee is a firm, partnership, association, or corporation and including any shareholder holding more than 25% of the corporate stock of the applicant or licensee, has violated any provision of this Act or any regulation or order made by the Comptroller under this Act.

(8) The Comptroller finds any fact or condition existing that, if it had existed at the time of the original application for a license under this Act, would have warranted the Comptroller in refusing the issuance of the license.

(9) Any violation of this Act or of the rules adopted under this Act.

(10) Incompetence.

(11) Gross malpractice.

(12) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(13) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(14) A finding by the Comptroller that the licensee, after having its license placed on probationary status, has

violated the terms of probation.

(15) Willfully making or filing false records or reports, including, but not limited to, false records filed with State agencies or departments.

(16) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(17) Practicing under a false or, except as provided by law, an assumed name.

(18) Cheating on or attempting to subvert this Act's licensing application process.

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 11. Grounds for denial or discipline.

(a) In this Section, "applicant" means a person who has applied for a license under this Act including those persons whose names are listed on a license application in Section 10 of this Act.

(b) The Comptroller ~~Department~~ may refuse to issue a license, place on probation, reprimand, or take other disciplinary action that the Comptroller ~~Department~~ may deem appropriate, including imposing fines not to exceed \$5,000 ~~\$10,000~~ for each violation, with regard to any license under this Act, or may suspend or revoke a license issued under this

Act, on any of the following grounds:

(1) The applicant or licensee has made any misrepresentation or false statement or concealed any material fact in furnishing information to the Comptroller ~~Department~~.

(2) The applicant or licensee has been engaged in business practices that work a fraud.

(3) The applicant or licensee has refused to give information required under this Act to be disclosed to the Comptroller ~~Department~~ or failing, within 30 days, to provide information in response to a written request made by the Comptroller ~~Department~~.

(4) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(5) As to any individual listed in the license application as required under Section 10, that individual has conducted or is about to conduct any cremation business on behalf of the applicant in a fraudulent manner or has been convicted of any felony or misdemeanor an essential element of which is fraud.

(6) The applicant or licensee has failed to make the annual report required by this Act or to comply with a final order, decision, or finding of the Comptroller ~~Department~~ made under this Act.

(7) The applicant or licensee, including any member,

officer, or director of the applicant or licensee if the applicant or licensee is a firm, partnership, association, or corporation and including any shareholder holding more than 25% of the corporate stock of the applicant or licensee, has violated any provision of this Act or any regulation or order made by the Comptroller ~~Department~~ under this Act.

(8) The Comptroller ~~Department~~ finds any fact or condition existing that, if it had existed at the time of the original application for a license under this Act, would have warranted the Comptroller in refusing the issuance of the license.

(9) Any violation of this Act or of the rules adopted under this Act.

(10) Incompetence.

(11) Gross malpractice.

(12) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(13) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(14) A finding by the Comptroller ~~Department~~ that the

licensee, after having its license placed on probationary status, has violated the terms of probation.

(15) Willfully making or filing false records or reports, including, but not limited to, false records filed with State agencies or departments.

(16) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(17) Practicing under a false or, except as provided by law, an assumed name.

(18) Cheating on or attempting to subvert this Act's licensing application process.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/11.5)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 11.5. License revocation or suspension; surrender of license.

(a) (Blank). ~~Upon determining that grounds exist for the revocation or suspension of a license issued under this Act, the Comptroller, if appropriate, may revoke or suspend the license issued to the licensee.~~

(b) Upon the revocation or suspension of a license issued under this Act, the licensee must immediately surrender the license to the Comptroller. If the licensee fails to do so, the

Comptroller may seize the license.

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 11.5. License revocation or suspension; surrender of license.

(a) (Blank).

(b) Upon the revocation or suspension of a license issued under this Act, the licensee must immediately surrender the license to the Comptroller ~~Department~~. If the licensee fails to do so, the Comptroller ~~Department~~ may seize the license.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/13)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 13. License; display; transfer; duration.

(a) Every license issued under this Act must state the number of the license, the business name and address of the licensee's principal place of business, and the licensee's parent company, if any. The license must be conspicuously posted in the place of business operating under the license.

(b) After initial licensure, if any person comes to obtain at least 51% of the ownership over the licensed crematory authority, then the crematory authority shall apply for a new

~~license in the required time as set out by rule. No license is transferable or assignable without the express written consent of the Comptroller. A transfer of more than 50% of the ownership of any business licensed under this Act shall be deemed to be an attempted assignment of the license originally issued to the licensee for whom consent of the Comptroller is required.~~

(c) Every license issued under this Act shall remain in force until it has been surrendered, suspended, or revoked in accordance with this Act. Upon the request of an interested person or on the Comptroller's own motion, the Comptroller may issue a new license to a licensee whose license has been revoked under this Act if no factor or condition then exists which would have warranted the Comptroller in originally refusing the issuance of the license.

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 13. License; display; transfer; duration.

(a) Every license issued under this Act must state the number of the license, the business name and address of the licensee's principal place of business, and the licensee's parent company, if any. The license must be conspicuously posted in the place of business operating under the license.

(b) After initial licensure, if any person comes to obtain

at least 51% ~~25%~~ of the ownership over the licensed crematory authority, then the crematory authority shall ~~have to~~ apply for a new license ~~and receive licensure~~ in the required time as set out by rule.

(c) Every license issued under this Act shall remain in force until it has been surrendered, suspended, or revoked in accordance with this Act. Upon the request of an interested person or on the Comptroller's ~~Department's~~ own motion, the Comptroller ~~Department~~ may issue a new license to a licensee whose license has been revoked under this Act if no factor or condition then exists which would have warranted the Comptroller ~~Department~~ in originally refusing the issuance of the license.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/14)

(Section scheduled to be repealed on January 1, 2021)

Sec. 14. Display of cremation device permit. A crematory authority must conspicuously display in its place of business the operating permit issued to its cremation device by the Illinois Environmental Protection Agency and the license issued by the Comptroller under this Act. All rulemaking authority in connection with ~~such~~ operating permits issued by the Illinois Environmental Protection Agency shall be vested with the Illinois Environmental Protection Agency and all rulemaking authority in connection with licenses issued by the

Comptroller under this Act shall be vested with the Comptroller.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/20)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20. Authorization to cremate.

(a) A crematory authority shall not cremate human remains until it has received all of the following:

(1) A cremation authorization form signed by an authorizing agent. The cremation authorization form shall be provided by the crematory authority and shall contain, at a minimum, the following information:

(A) The identity of the human remains and the time and date of death.

(B) The name of the funeral director and ~~or~~ funeral establishment, if applicable, that obtained the cremation authorization.

(C) Notification as to whether the death occurred from a disease declared by the Department of Health to be infectious, contagious, communicable, or dangerous to the public health.

(D) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(E) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent, and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in Section 15. In the event there is another living person who has a superior priority right to that of the authorizing agent, the form shall contain a representation that the authorizing agent has made all reasonable efforts to contact that person, has been unable to do so, and has no reason to believe that the person would object to the cremation of the decedent.

(F) Authorization for the crematory authority to cremate the human remains.

(G) A representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation.

(H) The name of the person authorized to receive the cremated remains from the crematory authority.

(I) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form may indicate that the cremated

remains will be held by the crematory authority for 30 days before they are released, unless they are picked up from the crematory authority prior to that time, in person, by the authorizing agent. At the end of the 30 days the crematory authority may return the cremated remains to the authorizing agent if no final disposition arrangements are made; or at the end of 60 days the crematory authority may dispose of the cremated remains in accordance with subsection (d) of Section 40.

(J) A listing of any items of value to be delivered to the crematory authority along with the human remains, and instructions as to how the items should be handled.

(K) A specific statement as to whether the authorizing agent has made arrangements for any type of viewing of the decedent before cremation, or for a service with the decedent present before cremation in connection with the cremation, and if so, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form, except as set forth in paragraph (M) of this subsection.

(M) If a cremation authorization form is being executed on a pre-need basis, the cremation authorization form shall contain the disclosure required by subsection (b) of Section 140 ~~65~~.

(N) The cremation authorization form, other than pre-need cremation forms, shall also be signed by a funeral director or other representative of the funeral establishment that obtained the cremation authorization. That individual shall merely execute the cremation authorization form as a witness and shall not be responsible for any of the representations made by the authorizing agent, unless the individual has actual knowledge to the contrary. The information requested by items (A), (B), (C) and (G) of this subsection, however, shall be considered to be representations of the authorizing agent. In addition, the funeral director or funeral establishment shall warrant to the crematory that the human remains delivered to the crematory authority are the human remains identified on the cremation authorization form.

(2) A completed and executed burial transit permit indicating that the human remains are to be cremated.

(3) Any other documentation required by this State.

(b) If an authorizing agent is not available to execute a cremation authorization form in person, that person may

delegate that authority to another person in writing, or by sending the crematory authority a facsimile transmission that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated. Upon receipt of the written document, or facsimile transmission, telegram, or other electronic telecommunications transmission which specifies the individual to whom authority has been delegated, the crematory authority shall allow this individual to serve as the authorizing agent and to execute the cremation authorization form. The crematory authority shall be entitled to rely upon the cremation authorization form without liability.

(c) An authorizing agent who signs a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth on the cremation authorization form, including that person's authority to order the cremation; except for the information required by items (C) and (G) of paragraph (1) of subsection (a) of this Section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing a cremation authorization form shall be personally and individually liable for all damages occasioned by and resulting from authorizing the cremation.

(d) A crematory authority shall have authority to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory authority that cremates human remains

according to an authorization, or that releases or disposes of the cremated remains according to an authorization, except for a crematory authority's gross negligence, provided that the crematory authority performs its functions in compliance with this Act.

(e) After an authorizing agent has executed a cremation authorization form, the authorizing agent may revoke the authorization and instruct the crematory authority to cancel the cremation and to release or deliver the human remains to another crematory authority or funeral establishment. The instructions shall be provided to the crematory authority in writing. A crematory authority shall honor any instructions given to it by an authorizing agent under this Section if it receives the instructions prior to beginning the cremation of the human remains.

(Source: P.A. 87-1187.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20. Authorization to cremate.

(a) A crematory authority shall not cremate human remains until it has received all of the following:

(1) A cremation authorization form signed by an authorizing agent. The cremation authorization form shall be provided by the crematory authority and shall contain, at a minimum, the following information:

(A) The identity of the human remains and the time and date of death.

(B) The name of the funeral director and funeral establishment, if applicable, that obtained the cremation authorization.

(C) Notification as to whether the death occurred from a disease declared by the Department of Health to be infectious, contagious, communicable, or dangerous to the public health.

(D) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(E) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent, and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in Section 15. In the event there is another living person who has a superior priority right to that of the authorizing agent, the form shall contain a representation that the authorizing agent has made all reasonable efforts to contact that person, has been unable to do so, and has no reason to believe that the person would object to the cremation of the decedent.

(F) Authorization for the crematory authority to cremate the human remains.

(G) A representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation.

(H) The name of the person authorized to receive the cremated remains from the crematory authority.

(I) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form may indicate that the cremated remains will be held by the crematory authority for 30 days before they are released, unless they are picked up from the crematory authority prior to that time, in person, by the authorizing agent. At the end of the 30 days the crematory authority may return the cremated remains to the authorizing agent if no final disposition arrangements are made; or at the end of 60 days the crematory authority may dispose of the cremated remains in accordance with subsection (d) of Section 40.

(J) A listing of any items of value to be delivered to the crematory authority along with the human remains, and instructions as to how the items should be handled.

(K) A specific statement as to whether the authorizing agent has made arrangements for any type of viewing of the decedent before cremation, or for a service with the decedent present before cremation in connection with the cremation, and if so, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form, except as set forth in paragraph (M) of this subsection.

(M) If a cremation authorization form is being executed on a pre-need basis, the cremation authorization form shall contain the disclosure required by subsection (b) of Section 140.

(N) The cremation authorization form, other than pre-need cremation forms, shall also be signed by a funeral director or other representative of the funeral establishment that obtained the cremation authorization. That individual shall merely execute the cremation authorization form as a witness and shall not be responsible for any of the representations made by the authorizing agent, unless the individual has actual knowledge to the contrary. The information requested by items (A), (B), (C) and (G) of this

subsection, however, shall be considered to be representations of the authorizing agent. In addition, the funeral director or funeral establishment shall warrant to the crematory that the human remains delivered to the crematory authority are the human remains identified on the cremation authorization form.

(2) A completed and executed burial transit permit indicating that the human remains are to be cremated.

(3) Any other documentation required by this State.

(b) If an authorizing agent is not available to execute a cremation authorization form in person, that person may delegate that authority to another person in writing, or by sending the crematory authority a facsimile transmission that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated. Upon receipt of the written document, or facsimile transmission, telegram, or other electronic telecommunications transmission which specifies the individual to whom authority has been delegated, the crematory authority shall allow this individual to serve as the authorizing agent and to execute the cremation authorization form. The crematory authority shall be entitled to rely upon the cremation authorization form without liability.

(c) An authorizing agent who signs a cremation authorization form shall be deemed to warrant the truthfulness

of any facts set forth on the cremation authorization form, including that person's authority to order the cremation; except for the information required by items (C) and (G) of paragraph (1) of subsection (a) of this Section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing a cremation authorization form shall be personally and individually liable for all damages occasioned by and resulting from authorizing the cremation.

(d) A crematory authority shall have authority to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory authority that cremates human remains according to an authorization, or that releases or disposes of the cremated remains according to an authorization, except for a crematory authority's gross negligence, provided that the crematory authority performs its functions in compliance with this Act.

(e) After an authorizing agent has executed a cremation authorization form, the authorizing agent may revoke the authorization and instruct the crematory authority to cancel the cremation and to release or deliver the human remains to another crematory authority or funeral establishment. The instructions shall be provided to the crematory authority in writing. A crematory authority shall honor any instructions given to it by an authorizing agent under this Section if it receives the instructions prior to beginning the cremation of

the human remains.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/22)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 22. Performance of cremation service; training. A person may not perform a cremation service in this State unless he or she has completed training in performing cremation services and received certification by a program recognized by the Comptroller. The crematory authority must conspicuously display the certification at the crematory authority's place of business. Any new employee shall have a reasonable time period, not to exceed one year, to attend a recognized training program. In the interim, the new employee may perform a cremation service if he or she has received training from another person who has received certification by a program recognized by the Comptroller and is under the supervision of the trained person. For purposes of this Act, the Comptroller may ~~shall~~ recognize any training program that provides training in the operation of a cremation device, in the maintenance of a clean facility, and in the proper handling of human remains. The Comptroller may ~~shall~~ recognize any course that is conducted by a death care trade association in Illinois or the United States or by a manufacturer of a cremation unit that is consistent with the standards provided in this Act or as

otherwise determined by rule.

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 22. Performance of cremation service; training. A person may not perform a cremation service in this State unless he or she has completed training in performing cremation services and received certification by a program recognized by the Comptroller ~~Department~~. The crematory authority must conspicuously display the certification at the crematory authority's place of business. Any new employee shall have a reasonable time period, not to exceed one year ~~as determined by rule~~, to attend a recognized training program. In the interim, the new employee may perform a cremation service if he or she has received training from another person who has received certification by a program recognized by the Comptroller ~~Department~~ and is under the supervision of the trained person. For purposes of this Act, the Comptroller ~~Department~~ may recognize any training program that provides training in the operation of a cremation device, in the maintenance of a clean facility, and in the proper handling of human remains. The Comptroller ~~Department~~ may recognize any course that is conducted by a death care trade association in Illinois or the United States or by a manufacturer of a cremation unit that is consistent with the standards provided in this Act or as

otherwise determined by rule.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/25)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25. Recordkeeping.

(a) The crematory authority shall furnish to the person who delivers human remains to the crematory authority a receipt signed at the time of delivery by both the crematory authority and the person who delivers the human remains, showing the date and time of the delivery, the type of casket or alternative container that was delivered, the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom the person is affiliated, the name of the person who received the human remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(b) Upon its release of cremated remains, the crematory authority shall furnish to the person who receives the cremated remains from the crematory authority a receipt signed by both the crematory authority and the person who receives the cremated remains, showing the date and time of the release, the name of the person to whom the cremated remains were released and the name of the funeral establishment, cemetery, or other

entity with whom the person is affiliated, the name of the person who released the cremated remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(c) A crematory authority shall maintain at its place of business a permanent record of each cremation that took place at its facility which shall contain the name of the decedent, the date of the cremation, and the final disposition of the cremated remains.

(d) The crematory authority shall maintain a record of all cremated remains disposed of by the crematory authority in accordance with subsection (d) of Section 40.

(e) Upon completion of the cremation, the crematory authority shall file the burial transit permit as required by the Illinois Vital Records Act and rules adopted under that Act and the Illinois Counties Code law, and transmit a photocopy of the burial transit permit along with the cremated remains to whoever receives the cremated remains from the authorizing agent unless the cremated remains are to be interred, entombed, inurned, or placed in a scattering area, in which case the crematory authority shall retain a copy of the burial transit permit and shall send the permit, along with the cremated remains, to the cemetery, which shall file the permit with the designated agency after the interment, entombment, inurnment, or scattering has taken place.

(f) All cemeteries shall maintain a record of all cremated remains that are disposed of on their property, provided that the cremated remains were properly transferred to the cemetery and the cemetery issued a receipt acknowledging the transfer of the cremated remains.

(Source: P.A. 87-1187.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25. Recordkeeping.

(a) The crematory authority shall furnish to the person who delivers human remains to the crematory authority a receipt signed at the time of delivery by both the crematory authority and the person who delivers the human remains, showing the date and time of the delivery, the type of casket or alternative container that was delivered, the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom the person is affiliated, the name of the person who received the human remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(b) Upon its release of cremated remains, the crematory authority shall furnish to the person who receives the cremated remains from the crematory authority a receipt signed by both the crematory authority and the person who receives the

cremated remains, showing the date and time of the release, the name of the person to whom the cremated remains were released and the name of the funeral establishment, cemetery, or other entity with whom the person is affiliated, the name of the person who released the cremated remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(c) A crematory authority shall maintain at its place of business a permanent record of each cremation that took place at its facility which shall contain the name of the decedent, the date of the cremation, and the final disposition of the cremated remains.

(d) The crematory authority shall maintain a record of all cremated remains disposed of by the crematory authority in accordance with subsection (d) of Section 40.

(e) Upon completion of the cremation, the crematory authority shall file the burial transit permit as required by the Illinois Vital Records Act and rules adopted under that Act and the Illinois Counties Code, and transmit a photocopy of the burial transit permit along with the cremated remains to whoever receives the cremated remains from the authorizing agent unless the cremated remains are to be interred, entombed, inurned, or placed in a scattering area, in which case the crematory authority shall retain a copy of the burial transit permit and shall send the permit, along with the cremated

remains, to the cemetery, which shall file the permit with the designated agency after the interment, entombment, inurnment, or scattering has taken place.

(f) All cemeteries shall maintain a record of all cremated remains that are disposed of on their property, provided that the cremated remains were properly transferred to the cemetery and the cemetery issued a receipt acknowledging the transfer of the cremated remains.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/40)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 40. Disposition of cremated remains.

(a) The authorizing agent shall be responsible for the final disposition of the cremated remains.

(b) Cremated remains may be disposed of by placing them in a grave, crypt, or niche, by scattering them in a scattering area as defined in this Act, or in any manner whatever on the private property of a consenting owner.

(c) Upon the completion of the cremation process, and except as provided for in item (I) ~~(J)~~ of paragraph (1) of subsection (a) of Section 20, if the crematory authority has not been instructed to arrange for the interment, entombment, inurnment, or scattering of the cremated remains, the crematory authority shall deliver the cremated remains to the individual

specified on the cremation authorization form, or if no individual is specified then to the authorizing agent. The delivery may be made in person or by registered mail. Upon receipt of the cremated remains, the individual receiving them may transport them in any manner in this State without a permit, and may dispose of them in accordance with this Section. After delivery, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains.

(d) If, after a period of 60 days from the date of the cremation, the authorizing agent or the agent's designee has not instructed the crematory authority to arrange for the final disposition of the cremated remains or claimed the cremated remains, the crematory authority may dispose of the cremated remains in any manner permitted by this Section. The crematory authority, however, shall keep a permanent record identifying the site of final disposition. The authorizing agent shall be responsible for reimbursing the crematory authority for all reasonable expenses incurred in disposing of the cremated remains. Upon disposing of the cremated remains, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains. Any person who was in possession of cremated remains prior to the effective date of this Act may dispose of them in accordance with this Section.

(e) Except with the express written permission of the

authorizing agent, no person shall:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition shall not apply to the scattering of cremated remains at sea, by air, or in an area located in a dedicated cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary container or urn.

(Source: P.A. 87-1187.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 40. Disposition of cremated remains.

(a) The authorizing agent shall be responsible for the final disposition of the cremated remains.

(b) Cremated remains may be disposed of by placing them in a grave, crypt, or niche, by scattering them in a scattering area as defined in this Act, or in any manner whatever on the private property of a consenting owner.

(c) Upon the completion of the cremation process, and except as provided for in item (I) of paragraph (1) of subsection (a) of Section 20, if the crematory authority has not been instructed to arrange for the interment, entombment, inurnment, or scattering of the cremated remains, the crematory authority shall deliver the cremated remains to the individual

specified on the cremation authorization form, or if no individual is specified then to the authorizing agent. The delivery may be made in person or by registered mail. Upon receipt of the cremated remains, the individual receiving them may transport them in any manner in this State without a permit, and may dispose of them in accordance with this Section. After delivery, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains.

(d) If, after a period of 60 days from the date of the cremation, the authorizing agent or the agent's designee has not instructed the crematory authority to arrange for the final disposition of the cremated remains or claimed the cremated remains, the crematory authority may dispose of the cremated remains in any manner permitted by this Section. The crematory authority, however, shall keep a permanent record identifying the site of final disposition. The authorizing agent shall be responsible for reimbursing the crematory authority for all reasonable expenses incurred in disposing of the cremated remains. Upon disposing of the cremated remains, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains. Any person who was in possession of cremated remains prior to the effective date of this Act may dispose of them in accordance with this Section.

(e) Except with the express written permission of the

authorizing agent, no person shall:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition shall not apply to the scattering of cremated remains at sea, by air, or in an area located in a dedicated cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary container or urn.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/55)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 55. Penalties.

Violations of this Act shall be punishable as follows:

(1) Performing a cremation without receipt of a cremation authorization form signed by an authorizing agent shall be a Class 4 felony.

(2) Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information shall be a Class 4 felony.

(3) A Violation of any cremation procedure set forth in Section 35 shall be a Class 4 felony.

(4) Holding oneself out to the public as a crematory authority, or the operation of a building or structure

within this State as a crematory, without being licensed under this Act, shall be a Class A misdemeanor.

(4.5) Performance of a cremation service by a person who has not completed a training program as defined in Section 22 of this Act shall be a Class A misdemeanor.

(4.10) Any person who intentionally violates a provision of this Act or a final order of the Comptroller is liable for a civil penalty not to exceed \$5,000 per violation.

(4.15) Any person who knowingly acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 3 felony.

(5) A violation of any other provision of this Act shall be a Class B misdemeanor.

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 55. Penalties. Violations of this Act shall be punishable as follows:

(1) Performing a cremation without receipt of a cremation authorization form signed by an authorizing agent shall be a Class 4 felony.

(2) Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect

information shall be a Class 4 felony.

(3) A Violation of any cremation procedure set forth in Section 35 shall be a Class 4 felony.

(4) Holding oneself out to the public as a crematory authority, or the operation of a building or structure within this State as a crematory, without being licensed under this Act, shall be a Class A misdemeanor.

(4.5) Performance of a cremation service by a person who has not completed a training program as defined in Section 22 of this Act shall be a Class A misdemeanor.

(4.10) Any person who intentionally violates a provision of this Act or a final order of the Comptroller Department is liable for a civil penalty not to exceed \$5,000 ~~\$10,000~~ per violation.

(4.15) Any person who knowingly acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 3 felony.

(5) A violation of any other provision of this Act shall be a Class B misdemeanor.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/60)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 60. Failure to file annual report. Whenever a

crematory authority refuses or neglects to file its annual report in violation of Section 10 of this Act, or fails to otherwise comply with the requirements of this Act, the Comptroller shall impose a penalty as provided for by rule for each and every day the licensee remains delinquent in submitting the annual report. Such report shall be made under oath and shall be in a form determined by the Comptroller ~~may commence an administrative proceeding as authorized by this Act or may communicate the facts to the Attorney General of the State of Illinois who shall thereupon institute such proceedings against the crematory authority or its officers as the nature of the case may require.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 60. Failure to file annual report. Whenever a crematory authority refuses or neglects to file its annual report in violation of Section 10 of this Act, or fails to otherwise comply with the requirements of this Act, the Comptroller ~~Department~~ shall impose a penalty as provided for by rule for each and every day the licensee remains delinquent in submitting the annual report. Such report shall be made under oath and shall be in a form determined by the Comptroller ~~Department~~.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/62)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62. Injunctive action; cease and desist order
Investigation of unlawful practices.

(a) If any person violates the provisions of this Act, the Comptroller, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Comptroller, a person violates any provision of this Act, the Comptroller may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Comptroller and shall allow at least 7 days from the date of the rule to file an

answer satisfactory to the Comptroller. Failure to answer to the satisfaction of the Comptroller shall cause an order to cease and desist to be issued.

~~If the Comptroller has good cause to believe that a person has engaged in, is engaging in, or is about to engage in any practice in violation of this Act, the Comptroller may do any one or more of the following:~~

~~(1) Require that person to file, on terms the Comptroller prescribes, a statement or report in writing, under oath or otherwise, containing all information that the Comptroller considers necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required under this Act.~~

~~(2) Examine under oath any person in connection with the books and records required to be maintained under this Act.~~

~~(3) Examine any books and records of a licensee that the Comptroller considers necessary to ascertain compliance with this Act.~~

~~(4) Require the production of a copy of any record, book, document, account, or paper that is produced in accordance with this Act and retain it in the Comptroller's possession until the completion of all proceedings in connection with which it is produced.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62. Injunctive action; cease and desist order.

(a) If any person violates the provisions of this Act, the Comptroller Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Comptroller Department, a person violates any provision of this Act, the Comptroller Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Comptroller Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Comptroller Department. Failure to answer to the satisfaction

of the Comptroller ~~Department~~ shall cause an order to cease and desist to be issued.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/62.5)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.5. Service of notice. Service by the Comptroller of any notice requiring a person to file a statement or report under this Act shall be made: (1) personally by delivery of a duly executed copy of the notice to the person to be served or, if that person is not a natural person, in the manner provided in the Civil Practice Law when a complaint is filed; or (2) by mailing by certified mail a duly executed copy of the notice to the person at his or her address of record ~~to be served at his or her last known abode or principal place of business within this State.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.5. Service of notice. Service by the Comptroller ~~Department~~ of any notice requiring a person to file a statement or report under this Act shall be made: (1) personally by delivery of a duly executed copy of the notice to the person to be served or, if that person is not a natural person, in the

manner provided in the Civil Practice Law when a complaint is filed; or (2) by mailing by certified mail a duly executed copy of the notice to the person at his or her address of record.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/62.10)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.10. Investigations; notice and hearing
~~Investigation of actions; hearing.~~

The Comptroller may at any time investigate the actions of any applicant or of any person, persons, or entity rendering or offering to render cremation services or any person or entity holding or claiming to hold a license as a licensed crematory. The Comptroller shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 11 of this Act, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct the accused applicant or licensee to file a written answer to the charges with the Comptroller under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with

regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Comptroller may consider proper.

At the time and place fixed in the notice, the Comptroller shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Comptroller shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing. The Comptroller may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Comptroller, be suspended, revoked, placed on probationary status, or the Comptroller may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Comptroller.

~~(a) The Comptroller shall make an investigation upon discovering facts that, if proved, would constitute grounds for refusal, suspension, or revocation of a license under this Act.~~

~~(b) Before refusing to issue, and before suspending or revoking, a license under this Act, the Comptroller shall hold a hearing to determine whether the applicant for a license or the licensee ("the respondent") is entitled to hold such a license. At least 10 days before the date set for the hearing, the Comptroller shall notify the respondent in writing that (i) on the designated date a hearing will be held to determine the respondent's eligibility for a license and (ii) the respondent may appear in person or by counsel. The written notice may be served on the respondent personally, or by registered or certified mail sent to the respondent's business address as shown in the respondent's latest notification to the Comptroller. The notice must include sufficient information to inform the respondent of the general nature of the reason for the Comptroller's action.~~

~~(c) At the hearing, both the respondent and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence, and argument as may be pertinent to the charge or to any defense to the charge. The Comptroller may reasonably continue the hearing from time to time. The Comptroller may subpoena any person or persons in this State and take testimony orally, by deposition, or by exhibit, in the same manner and with the same fees and mileage as prescribed in judicial proceedings in civil cases. Any authorized agent of the Comptroller may administer oaths to witnesses at any hearing that the Comptroller is authorized to~~

~~conduct.~~

~~(d) The Comptroller, at the Comptroller's expense, shall provide a certified shorthand reporter to take down the testimony and preserve a record of every proceeding at the hearing of any case involving the refusal to issue a license under this Act, the suspension or revocation of such a license, the imposition of a monetary penalty, or the referral of a case for criminal prosecution. The record of any such proceeding shall consist of the notice of hearing, the complaint, all other documents in the nature of pleadings and written motions filed in the proceeding, the transcript of testimony, and the report and orders of the Comptroller. Copies of the transcript of the record may be purchased from the certified shorthand reporter who prepared the record or from the Comptroller.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.10. Investigations; notice and hearing. The Comptroller ~~Department~~ may at any time investigate the actions of any applicant or of any person, persons, or entity rendering or offering to render cremation services or any person or entity holding or claiming to hold a license as a licensed crematory. The Comptroller ~~Department~~ shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 11 of this Act, at

least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct the accused applicant or licensee to file a written answer to the charges with the Comptroller ~~Department~~ under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Comptroller ~~Department~~ may consider proper.

At the time and place fixed in the notice, the Comptroller ~~Department~~ shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Comptroller ~~Secretary~~ shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing. The Comptroller ~~Department~~ may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Comptroller ~~Department~~, be suspended, revoked, placed on probationary status, or the Comptroller ~~Department~~ may take

whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Comptroller Department.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/62.15)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.15. Compelling testimony ~~Court order~~. Any circuit court, upon application of the Comptroller or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt. ~~Upon the application of the Comptroller or of the applicant or licensee against whom proceedings under Section 62.10 are pending, any circuit court may enter an order requiring witnesses to attend and testify and requiring the production of documents, papers, files, books, and records in connection with any hearing in any proceeding under that Section. Failure to obey such a court~~

~~order may result in contempt proceedings.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.15. Compelling testimony. Any circuit court, upon application of the Comptroller ~~Department~~ or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/62.20)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.20. Administrative review; venue; certification of record; costs ~~Judicial review.~~

(a) All final administrative decisions of the Comptroller are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois,

the venue shall be in Sangamon County.

(c) The Comptroller shall not be required to certify any record of the court, file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Comptroller has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Comptroller. Failure on the part of the plaintiff to make such payment to the Comptroller is grounds for dismissal of the action.

~~(a) Any person affected by a final administrative decision of the Comptroller under this Act may have the decision reviewed judicially by the circuit court of the county where the person resides or, in the case of a corporation, where the corporation's registered office is located. If the plaintiff in the judicial review proceeding is not a resident of this State, venue shall be in Sangamon County. The provisions of the Administrative Review Law and any rules adopted under it govern all proceedings for the judicial review of final administrative decisions of the Comptroller under this Act. The term "administrative decision" is defined as in the Administrative Review Law.~~

~~(b) The Comptroller is not required to certify the record of the proceeding unless the plaintiff in the review proceeding has purchased a copy of the transcript from the certified shorthand reporter who prepared the record or from the Comptroller. Exhibits shall be certified without cost.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 62.20. Administrative review; venue; certification of record; costs.

(a) All final administrative decisions of the Comptroller ~~Department~~ are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

(c) The Comptroller ~~Department~~ shall not be required to certify any record of the court, file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Comptroller ~~Department~~ has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Comptroller ~~Department~~. Failure on the part of the plaintiff to make such payment to the Comptroller ~~Department~~ is grounds for dismissal of the action.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/65)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 65. Pre-need cremation arrangements.

(a) Any person, or anyone who has legal authority to act on behalf of a person, on a pre-need basis, may authorize his or her own cremation and the final disposition of his or her cremated remains by executing, as the authorizing agent, a cremation authorization form on a pre-need basis. A copy of this form shall be provided to the person. Any person shall have the right to transfer or cancel this authorization at any time prior to death by destroying the executed cremation authorization form and providing written notice to the crematory authority.

(b) Any cremation authorization form that is being executed by an individual as his or her own authorizing agent on a pre-need basis shall contain the following disclosure, which shall be completed by the authorizing agent:

"() I do not wish to allow any of my survivors the option of cancelling my cremation and selecting alternative arrangements, regardless of whether my survivors deem a change to be appropriate.

() I wish to allow only the survivors whom I have designated below the option of cancelling my cremation and selecting alternative arrangements, if they deem a change to be appropriate:....."

(c) Except as provided in subsection (b) of this Section, at the time of the death of a person who has executed, as the authorizing agent, a cremation authorization form on a pre-need basis, any person in possession of an executed form and any person charged with making arrangements for the final disposition of the decedent who has knowledge of the existence of an executed form, shall use their best efforts to ensure that the decedent is cremated and that the final disposition of the cremated remains is in accordance with the instructions contained on the cremation authorization form. If a crematory authority (i) is in possession of a completed cremation authorization form that was executed on a pre-need basis, (ii) is in possession of the designated human remains, and (iii) has received payment for the cremation of the human remains and the final disposition of the cremated remains or is otherwise assured of payment, then the crematory authority shall be required to cremate the human remains and dispose of the cremated remains according to the instructions contained on the cremation authorization form, and may do so without any liability.

(d) ~~(e)~~ Any pre-need contract sold by, or pre-need arrangements made with, a cemetery, funeral establishment, crematory authority, or any other party that includes a cremation shall specify the final disposition of the cremated remains, in accordance with Section 40. In the event that no different or inconsistent instructions are provided to the

crematory authority by the authorizing agent at the time of death, the crematory authority shall be authorized to release or dispose of the cremated remains as indicated in the pre-need agreement. Upon compliance with the terms of the pre-need agreement, the crematory authority shall be discharged from any legal obligation concerning the cremated remains. The pre-need agreement shall be kept as a permanent record by the crematory authority.

(e) ~~(f)~~ This Section shall not apply to any cremation authorization form or pre-need contract executed prior to the effective date of this Act. Any cemetery, funeral establishment, crematory authority, or other party, however, with the written approval of the authorizing agent or person who executed the pre-need contract, may designate that the cremation authorization form or pre-need contract shall be subject to this Act.

(Source: P.A. 87-1187.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 65. Pre-need cremation arrangements.

(a) Any person, or anyone who has legal authority to act on behalf of a person, on a pre-need basis, may authorize his or her own cremation and the final disposition of his or her cremated remains by executing, as the authorizing agent, a cremation authorization form on a pre-need basis. A copy of

this form shall be provided to the person. Any person shall have the right to transfer or cancel this authorization at any time prior to death by destroying the executed cremation authorization form and providing written notice to the crematory authority.

(b) Any cremation authorization form that is being executed by an individual as his or her own authorizing agent on a pre-need basis shall contain the following disclosure, which shall be completed by the authorizing agent:

"() I do not wish to allow any of my survivors the option of cancelling my cremation and selecting alternative arrangements, regardless of whether my survivors deem a change to be appropriate.

() I wish to allow only the survivors whom I have designated below the option of cancelling my cremation and selecting alternative arrangements, if they deem a change to be appropriate:....."

(c) Except as provided in subsection (b) of this Section, at the time of the death of a person who has executed, as the authorizing agent, a cremation authorization form on a pre-need basis, any person in possession of an executed form and any person charged with making arrangements for the final disposition of the decedent who has knowledge of the existence of an executed form, shall use their best efforts to ensure that the decedent is cremated and that the final disposition of the cremated remains is in accordance with the instructions

contained on the cremation authorization form. If a crematory authority (i) is in possession of a completed cremation authorization form that was executed on a pre-need basis, (ii) is in possession of the designated human remains, and (iii) has received payment for the cremation of the human remains and the final disposition of the cremated remains or is otherwise assured of payment, then the crematory authority shall be required to cremate the human remains and dispose of the cremated remains according to the instructions contained on the cremation authorization form, and may do so without any liability.

(d) Any pre-need contract sold by, or pre-need arrangements made with, a cemetery, funeral establishment, crematory authority, or any other party that includes a cremation shall specify the final disposition of the cremated remains, in accordance with Section 40. In the event that no different or inconsistent instructions are provided to the crematory authority by the authorizing agent at the time of death, the crematory authority shall be authorized to release or dispose of the cremated remains as indicated in the pre-need agreement. Upon compliance with the terms of the pre-need agreement, the crematory authority shall be discharged from any legal obligation concerning the cremated remains. The pre-need agreement shall be kept as a permanent record by the crematory authority.

(e) This Section shall not apply to any cremation

authorization form or pre-need contract executed prior to the effective date of this Act. Any cemetery, funeral establishment, crematory authority, or other party, however, with the written approval of the authorizing agent or person who executed the pre-need contract, may designate that the cremation authorization form or pre-need contract shall be subject to this Act.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/80)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 80. Record of proceedings; transcript ~~Home Rule~~. The Comptroller, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. Any notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the hearing officer, and orders of the Comptroller shall be in the record of the proceeding. The Comptroller shall furnish a transcript of such record to any person interested in such hearing upon payment of a reasonable fee. ~~The regulation of crematories and crematory authorities as set forth in this Act is an exclusive power and function of the State. A home rule unit may not regulate crematories or crematory authorities. This Section is a denial and limitation of home rule powers and functions under~~

~~subsection (h) of Section 6 of Article VII of the Illinois Constitution.~~

(Source: P.A. 91-357, eff. 7-29-99.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 80. Record of proceedings; transcript. The Comptroller Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. Any notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the hearing officer, and orders of the Comptroller Department shall be in the record of the proceeding. The Comptroller Department shall furnish a transcript of such record to any person interested in such hearing upon payment of a reasonable fee ~~the fee required under Section 2105-115 of the Department of Professional Regulation Law.~~

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/85)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 85. Subpoenas; depositions; oaths. The Comptroller Department has the power to subpoena documents, books, records

or other materials and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Comptroller Secretary, the designated hearing officer, or any qualified person the Comptroller Department may designate has the power to administer oaths to witnesses at any hearing that the Comptroller Department is authorized to conduct, and any other oaths authorized in any Act administered by the Comptroller Department.

Every person having taken an oath or affirmation in any proceeding or matter wherein an oath is required by this Act, who shall swear willfully, corruptly and falsely in a matter material to the issue or point in question, or shall suborn any other person to swear as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be and shall be punished as provided by State law relative to perjury and subornation of perjury.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/87)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 87. Findings and recommendations. At the conclusion of the hearing, the hearing officer shall present to the

Comptroller Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or its rules or failed to comply with the conditions required in this Act or its rules. The hearing officer shall specify the nature of any violations or failure to comply and shall make recommendations to the Comptroller Secretary. In making recommendations for any disciplinary actions, the hearing officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including but not limited to, previous discipline of the accused by the Comptroller Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the hearing officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation. The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Comptroller's Department's order refusing to issue, restore, place on probation, fine, suspend, revoke a license, or otherwise disciplining a licensee. If the Comptroller Secretary disagrees with the recommendations of the hearing

officer, the Comptroller ~~Secretary~~ may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/88)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 88. Rehearing. At the conclusion of the hearing, a copy of the hearing officer's report shall be served upon the applicant or licensee by the Comptroller ~~Department~~, either personally or as provided in this Act. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Comptroller ~~Department~~ may respond to the motion for rehearing within 20 days after its service on the Comptroller ~~Department~~. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Comptroller ~~Secretary~~ may enter an order in accordance with recommendations of the hearing officer except as provided in Section 89 of this

Act.

If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/89)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 89. Comptroller ~~Secretary~~; rehearing. Whenever the Comptroller ~~Secretary~~ believes that substantial justice has not been done in the revocation, suspension, or refusal to issue or restore a license or other discipline of an applicant or licensee, he or she may order a rehearing by the same or other hearing officers.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/90)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 90. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the

Comptroller Department and purporting to be signed by the Comptroller Secretary, is prima facie proof that:

(a) the signature is the genuine signature of the Comptroller Secretary;

(b) the Comptroller Secretary is duly appointed and qualified; and

(c) the hearing officer is qualified to act.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/91)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 91. Civil action and civil penalties. In addition to the other penalties and remedies provided in this Act, the Comptroller Department may bring a civil action in the county of residence of the licensee or any other person to enjoin any violation or threatened violation of this Act. In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Comptroller Department in an amount not to exceed \$5,000 ~~\$10,000~~ for each violation as determined by the Comptroller Department. The civil penalty shall be assessed by the Comptroller Department in accordance with the provisions of this Act.

Any civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The

order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record. All moneys collected under this Section shall be deposited with the Comptroller ~~into the Cemetery Oversight Licensing and Disciplinary Fund.~~

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/92)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 92. Consent order. At any point in any investigation or disciplinary proceedings as provided in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Comptroller ~~Secretary.~~

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/94)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2021)

Sec. 94. Summary suspension of a license. The Comptroller ~~Secretary~~ may summarily suspend a license of a licensed crematory without a hearing, simultaneously with the institution of proceedings for a hearing provided for in this

Act, if the Comptroller ~~Secretary~~ finds that evidence in the Comptroller's ~~Secretary's~~ possession indicates that the licensee's continued practice would constitute an imminent danger to the public. In the event that the Comptroller ~~Secretary~~ summarily suspends the license of a licensed crematory without a hearing, a hearing must be commenced within 30 days after the suspension has occurred and concluded as expeditiously as practical. In the event of a summary suspension, the county coroner or medical examiner responsible for the area where the crematory is located shall make arrangements to dispose of any bodies in the suspended licensee's possession after consulting with the authorizing agents for those bodies.

(Source: P.A. 96-863, eff. 3-1-12.)

Section 35. The Vital Records Act is amended by changing Sections 11 and 25 as follows:

(410 ILCS 535/11) (from Ch. 111 1/2, par. 73-11)

Sec. 11. Information required on forms.

(a) The form of certificates, reports, and other returns required by this Act or by regulations adopted under this Act shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval of and modification by the Department. All forms shall be prescribed and furnished by the State Registrar of Vital

Records.

(b) On and after the effective date of this amendatory Act of 1983, all forms used to collect information under this Act which request information concerning the race or ethnicity of an individual by providing spaces for the designation of that individual as "white" or "black", or the semantic equivalent thereof, shall provide an additional space for a designation as "Hispanic".

(c) Effective November 1, 1990, the social security numbers of the mother and father shall be collected at the time of the birth of the child. These numbers shall not be recorded on the certificate of live birth. The numbers may be used only for those purposes allowed by Federal law.

(d) The social security number of a person who has died shall be entered on the death certificate; however, failure to enter the social security number of the person who has died on the death certificate does not invalidate the death certificate.

(e) If the place of disposition of a dead human body or cremated remains is in a cemetery, the burial permit shall include the place of disposition. The place of disposition shall include the lot, block, section, and plot or niche, and depth, if applicable, where the dead human body or cremated remains are located. This subsection does not apply to cremated remains scattered in a cemetery.

(Source: P.A. 96-863, eff. 3-1-10.)

(410 ILCS 535/25) (from Ch. 111 1/2, par. 73-25)

Sec. 25. In accordance with Section 24 of this Act, and the regulations adopted pursuant thereto:

(1) The State Registrar of Vital Records shall search the files of birth, death, and fetal death records, upon receipt of a written request and a fee of \$10 from any applicant entitled to such search. A search fee shall not be required for commemorative birth certificates issued by the State Registrar. If, upon search, the record requested is found, the State Registrar shall furnish the applicant one certification of such record, under the seal of such office. If the request is for a certified copy of the record an additional fee of \$5 shall be required. If the request is for a certified copy of a death certificate or a fetal death certificate, an additional fee of \$2 is required. The additional fee shall be deposited into the Death Certificate Surcharge Fund. A further fee of \$2 shall be required for each additional certification or certified copy requested. If the requested record is not found, the State Registrar shall furnish the applicant a certification attesting to that fact, if so requested by the applicant. A further fee of \$2 shall be required for each additional certification that no record has been found.

Any local registrar or county clerk shall search the files of birth, death and fetal death records, upon receipt of a written request from any applicant entitled to such search. If

upon search the record requested is found, such local registrar or county clerk shall furnish the applicant one certification or certified copy of such record, under the seal of such office, upon payment of the applicable fees. If the requested record is not found, the local registrar or county clerk shall furnish the applicant a certification attesting to that fact, if so requested by the applicant and upon payment of applicable fee. The local registrar or county clerk must charge a \$2 fee for each certified copy of a death certificate. The fee is in addition to any other fees that are charged by the local registrar or county clerk. The additional fees must be transmitted to the State Registrar monthly and deposited into the Death Certificate Surcharge Fund. The local registrar or county clerk may charge fees for providing other services for which the State Registrar may charge fees under this Section.

A request to any custodian of vital records for a search of the death record indexes for genealogical research shall require a fee of \$10 per name for a 5 year search. An additional fee of \$1 for each additional year searched shall be required. If the requested record is found, one uncertified copy shall be issued without additional charge.

Any fee received by the State Registrar pursuant to this Section which is of an insufficient amount may be returned by the State Registrar upon his recording the receipt of such fee and the reason for its return. The State Registrar is authorized to maintain a 2 signature, revolving checking

account with a suitable commercial bank for the purpose of depositing and withdrawing-for-return cash received and determined insufficient for the service requested.

No fee imposed under this Section may be assessed against an organization chartered by Congress that requests a certificate for the purpose of death verification.

Any custodian of vital records, whether it may be the Department of Public Health, a local registrar, or a county clerk shall charge an additional \$2 for each certified copy of a death certificate and that additional fee shall be collected on behalf of the Department of Financial and Professional Regulation for deposit into the Cemetery Oversight Licensing and Disciplinary Fund.

(2) The certification of birth may contain only the name, sex, date of birth, and place of birth, of the person to whom it relates, the name, age and birthplace of the parents, and the file number; and none of the other data on the certificate of birth except as authorized under subsection (5) of this Section.

(3) The certification of death shall contain only the name, Social Security Number, sex, date of death, and place of death of the person to whom it relates, and file number; and none of the other data on the certificate of death except as authorized under subsection (5) of this Section.

(4) Certification or a certified copy of a certificate shall be issued:

(a) Upon the order of a court of competent jurisdiction; or

(b) In case of a birth certificate, upon the specific written request for a certification or certified copy by the person, if of legal age, by a parent or other legal representative of the person to whom the record of birth relates, or by a person having a genealogical interest; or

(c) Upon the specific written request for a certification or certified copy by a department of the state or a municipal corporation or the federal government; or

(d) In case of a death or fetal death certificate, upon specific written request for a certified copy by a person, or his duly authorized agent, having a genealogical, personal or property right interest in the record.

A genealogical interest shall be a proper purpose with respect to births which occurred not less than 75 years and deaths which occurred not less than 20 years prior to the date of written request. Where the purpose of the request is a genealogical interest, the custodian shall stamp the certification or copy with the words, FOR GENEALOGICAL PURPOSES ONLY.

(5) Any certification or certified copy issued pursuant to this Section shall show the date of registration; and copies issued from records marked "delayed," "amended," or "court order" shall be similarly marked and show the effective date.

(6) Any certification or certified copy of a certificate issued in accordance with this Section shall be considered as prima facie evidence of the facts therein stated, provided that the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

(7) Any certification or certified copy issued pursuant to this Section shall be issued without charge when the record is required by the United States Veterans Administration or by any accredited veterans organization to be used in determining the eligibility of any person to participate in benefits available from such organization. Requests for such copies must be in accordance with Sections 1 and 2 of "An Act to provide for the furnishing of copies of public documents to interested parties," approved May 17, 1935, as now or hereafter amended.

(8) The National Vital Statistics Division, or any agency which may be substituted therefor, may be furnished such copies or data as it may require for national statistics; provided that the State shall be reimbursed for the cost of furnishing such data; and provided further that such data shall not be used for other than statistical purposes by the National Vital Statistics Division, or any agency which may be substituted therefor, unless so authorized by the State Registrar of Vital Records.

(9) Federal, State, local, and other public or private agencies may, upon request, be furnished copies or data for statistical purposes upon such terms or conditions as may be prescribed by the Department.

(10) The State Registrar of Vital Records, at his discretion and in the interest of promoting registration of births, may issue, without fee, to the parents or guardian of any or every child whose birth has been registered in accordance with the provisions of this Act, a special notice of registration of birth.

(11) No person shall prepare or issue any certificate which purports to be an original, certified copy, or certification of a certificate of birth, death, or fetal death, except as authorized in this Act or regulations adopted hereunder.

(12) A computer print-out of any record of birth, death or fetal record that may be certified under this Section may be used in place of such certification and such computer print-out shall have the same legal force and effect as a certified copy of the document.

(13) The State Registrar may verify from the information contained in the index maintained by the State Registrar the authenticity of information on births, deaths, marriages and dissolution of marriages provided to a federal agency or a public agency of another state by a person seeking benefits or employment from the agency, provided the agency pays a fee of \$10.

(14) The State Registrar may issue commemorative birth certificates to persons eligible to receive birth certificates under this Section upon the payment of a fee to be determined by the State Registrar.

(Source: P.A. 91-382, eff. 7-30-99; 92-141, eff. 7-24-01.)

Section 40. The Cemetery Protection Act is amended by changing Section .01 as follows:

(765 ILCS 835/.01) (from Ch. 21, par. 14.01)

Sec. .01. For the purposes of this Act, the term:

"Cemetery authority" means an individual or legal entity that owns or controls cemetery lands or property.

~~"Cemetery manager" means an individual who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. This definition also includes, without limitation, an individual that is an independent contractor or individuals employed or contracted by an independent contractor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed~~

~~under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property.~~

"Community mausoleum" means a mausoleum owned and operated by a cemetery authority that contains multiple entombment rights sold to the public.

(Source: P.A. 96-863, eff. 3-1-10.)

Section 45. The Cemetery Association Act is amended by changing Section 4 as follows:

(805 ILCS 320/4) (from Ch. 21, par. 38)

(Section scheduled to be repealed on March 1, 2012)

Sec. 4. That said persons so receiving said certificate of organization of said association shall proceed to elect from their own number a board of trustees for said association, which said board shall consist of not less than six (6) nor more than ten (10) members, as said persons so receiving said certificate may determine; that said trustees when elected shall immediately organize by electing from their own membership a president, vice president and treasurer, and shall also elect a secretary, who may or may not be a member of said board of trustees, in their discretion, which said officers shall hold their respective offices for and during the period of one (1) year, and until their successors are duly elected and qualified. Said trustees when so elected shall divide themselves by lot into two classes, the first of which shall

hold their offices for and during the period of three (3) years, and the second of which shall hold their offices for and during the period of six (6) years, and that thereafter the term of office of said trustees shall be six (6) years, and that upon the expiration of the term of office of any of said trustees, or in case of the resignation or death or removal from the State of Illinois of any of said trustees, or their removal from office as provided in this act, the remaining trustees, or a majority of them, shall notify the presiding officer of the County Board in which said cemetery is situated, of such vacancy or vacancies in writing and thereupon said presiding officer shall appoint some suitable person or persons to fill such vacancy or vacancies; and that thereafter the presiding officer of the county board in which said cemetery association is located shall always appoint some suitable person or persons ~~as trustees: Provided, however, that in making such appointments the said presiding officer of the County Board shall so exercise his power that at least two thirds (2 3) of said trustees shall be selected from suitable persons residing within fifteen (15) miles of said cemetery, or some part thereof, and the other appointees may be suitable persons~~ interested in said cemetery association through family interments or ~~otherwise~~ who are citizens of the State of Illinois.

(Source: P.A. 80-585. Repealed by P.A. 96-863, eff. 3-1-12.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect upon becoming law.